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United Nations

Report of the Human Rights Committee

Volume I

Eighty-fifth session
(17 October-3 November 2005)

Eighty-sixth session
(13-31 March 2006)

Eighty-seventh session
(10-28 July 2006)

General Assembly
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Sixtieth session
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VII. FOLLOW-UP OF THE HUMAN RIGHTS COMMITTEE ON INDIVIDUAL COMMUNICATIONS UNDER THE OPTIONAL PROTOCOL TO THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

Summary

The present annual report covers the period from 1 August 2005 to 31 July 2006 and the eighty-fifth, eighty-sixth and eighty-seventh sessions of the Human Rights Committee. Since the adoption of the last report, Indonesia became party to the International Covenant on Civil and Political Rights, the Republic of Montenegro was admitted as the 192nd member of the United Nations and is considered as a State party to the Covenant,[1] Kazakhstan submitted an instrument of ratification of the Covenant to the Secretary-General,[2] and Canada, Liberia and Turkey became parties to the Second Optional Protocol, thus bringing the total of States parties to the Covenant to 157, to the Optional Protocol to 105, and to the Second Optional Protocol to 57.

During the period under review, the Committee considered nine States parties reports under article 40 and adopted concluding observations on them (eighty-fifth session: Canada, Paraguay, Brazil and Italy; eighty-sixth session: Democratic Republic of Congo, Norway, and Hong Kong Special Administrative Region (China); eighty-seventh session: Central African Republic and the United States of America; see chapter IV for the concluding observations). The Committee also examined the report on Kosovo (Serbia) submitted by the United Nations Interim Administration Mission in Kosovo (UNMIK) and adopted concluding observations. It further considered one country situation in the absence of a report from the State party and adopted provisional concluding observations in that respect.

Under the Optional Protocol procedure, the Committee adopted 48 Views on communications and declared 8 communications admissible and 25 inadmissible. Consideration of 27 communications was discontinued (see chapter V for information on Optional Protocol decisions). So far, 1,486 communications have been registered since the entry into force of the Optional Protocol to the Covenant.

The Committee's procedure for following up on concluding observations, initiated in 2001, continued to develop during the reporting period. The Special Rapporteur for follow-up to concluding observations, Mr. Rafael Rivas Posada, presented progress reports during the eighty-fifth, eighty-sixth and eighty-seventh sessions of the Committee. The Committee notes with appreciation that the majority of States parties have continued to provide follow-up information to the Committee pursuant to rule 70, paragraph 5, of its rules of procedure, and expresses its appreciation to those States parties that have provided timely follow-up information. At its eighty-fifth session, the Committee decided to open the consideration of its follow-up activities on concluding observations to the public.

The Committee again deplores the fact that many States parties do not comply with their reporting obligations under article 40 of the Covenant. In 2001, it therefore adopted a procedure for dealing with non-reporting States. Under this procedure, the Committee at its eighty-sixth session considered, without a report but in the presence of a delegation, the measures taken by Saint Vincent and the Grenadines to give effect to the rights recognized in the Covenant. In accordance with rule 70 of its revised rules of procedure, the Committee adopted provisional concluding observations on the measures taken by the State party to give effect to the rights recognized in the Covenant, which were transmitted to Saint Vincent and the Grenadines.

The workload of the Committee under the Optional Protocol to the Covenant continued to grow during the reporting period, as demonstrated by the large number of cases registered. A total of 71 communications were registered under the Optional Protocol and by the end of the eighty-seventh session, a total of 275 communications were pending (see chapter V).

The Committee again notes that many States parties have failed to implement the Views adopted under the Optional Protocol. Through its Special Rapporteur for follow-up to Views, Mr. Nisuke Ando, the Committee has continued to seek to ensure implementation of its Views by States parties by arranging meetings with representatives of States parties that have not responded to the Committee's request for information about the measures taken to give effect to its Views, or that have given unsatisfactory replies to its request (see chapter VI). At the end of the eighty-seventh session, the Committee nominated Mr. Ivan Shearer as the new Special Rapporteur for follow-up to Views (see chapter I).

At the Committee's eighty-third session, Mr. Walter Kälin submitted an initial revised draft general comment on article 14 of the Covenant (right to a fair trial). The draft presented by the rapporteur continued to be discussed during the eighty-fifth, eighty-sixth and eighty-seventh sessions.

Throughout the reporting period, the Committee continued to contribute to the discussion prompted by the Secretary-General's proposals for reform and streamlining of the treaty body system. The Chairperson, Ms. Christine Chanet, as well as Mr. Rafael Rivas Posada and Mr. Michael O'Flaherty, represented the Committee, respectively at the eighteenth meeting of the chairpersons of human rights treaty bodies (22-23 June 2006) and at the fifth Inter-Committee Meeting (19-21 June 2006).

Notes

[1] Although no instrument of ratification was submitted by the Republic of Montenegro, the people within the territory of the State - which constituted part of a State party to the Covenant - continue to be entitled to the guarantees enunciated in the Covenant in accordance with the Committee's established jurisprudence (see *Official Records of the General Assembly, Forty-ninth Session, Supplement No. 40* (A/49/40), vol. I, paras. 48 and 49).

[2] Prior the receipt of an instrument of ratification by the Secretary-General, the Committee's position has been the following: although a declaration of succession has not been received, the people within the territory of the State - which constituted part of a former State party to the Covenant - continue to be entitled to the guarantees enunciated in the Covenant in accordance with the Committee's established jurisprudence (see *Official Records of the General Assembly, Forty-ninth Session, Supplement No. 40* (A/49/40), vol. I, paras. 48 and 49).

CHAPTER I. JURISDICTION AND ACTIVITIES

A. States parties to the International Covenant on Civil and Political Rights

1. By the end of the eighty-seventh session of the Human Rights Committee, there were 157 States parties to the International Covenant on Civil and Political Rights and 105 States parties to the Optional Protocol to the Covenant. Both instruments have been in force since 23 March 1976.

2. Since the last report, Indonesia has become party to the Covenant. On 24 January 2006, Kazakhstan ratified the Covenant. Prior the receipt of an instrument of ratification by the Secretary-General, the Committee's position has been the following: although the declaration of succession has not been received, the people within the territory of the State - which constituted part of a former State party to the Covenant - continue to be entitled to the guarantees enunciated in the Covenant in accordance with the Committee's established jurisprudence.[1] On 28 June 2006, the Republic of Montenegro was admitted as the 192nd member of the United Nations. Although no instrument of ratification was submitted by the Republic of Montenegro, the people within the territory of the State - which constituted part of a State party to the Covenant - continue to be entitled to the guarantees enunciated in the Covenant in accordance with the Committee's established jurisprudence.

3. As at 31 July 2006, 48 States had made the declaration envisaged under article 41, paragraph 1, of the Covenant. In this respect, the Committee appeals to States parties to make the declaration under article 41 of the Covenant and to use this mechanism, with a view to making the implementation of the provisions of the Covenant more effective.

4. The Second Optional Protocol to the Covenant, aiming at the abolition of the death penalty entered into force on 11 July 1991. As at 31 July 2006, there were 57 States parties to the Protocol, an increase since the Committee's last report of 3: Canada, Liberia and Turkey.

5. A list of States parties to the Covenant and to the two Optional Protocols, indicating those States which have made the declaration under article 41, paragraph 1, of the Covenant, is contained in annex I to the present report.

6. Reservations and other declarations made by a number of States parties in respect of the Covenant and/or the Optional Protocols are set out in the notifications deposited with the Secretary-General. The Committee notes with regret that no reservations to the Covenant were withdrawn during the reporting period, and encourages States parties to consider the possibility of withdrawing reservations to the Covenant. On 17 November 2004, the Government of Mauritania notified the Secretary-General of its accession to the Covenant with reservations to articles 18 and 23, paragraph 4, of the Covenant.[2] The following Governments objected to the reservations made by Mauritania: Finland (15 November 2005), France (18 November 2005), Germany (15 November 2005), Greece (24 October 2005), Latvia (15 November 2005), Poland (22 November 2005), Portugal (21 November 2005), Sweden (5 October 2005), and the United Kingdom of Great Britain and Northern Ireland (17 August 2005).

B. Sessions of the Committee

7. The Human Rights Committee held three sessions since the adoption of its previous annual report. The eighty-fifth session was held from 17 October to 3 November 2005, the eighty-sixth session was held from 13 to 31 March 2006, and the eighty-seventh session was held from 10 to 28 July 2006. The eighty-fifth and eighty-seventh sessions were held at the United Nations Office at Geneva, and the eighty-sixth session at United Nations Headquarters in New York.

C. Election of officers

8. On 14 March 2005, the Committee elected the following officers for a term of two years, in accordance with article 39, paragraph 1, of the Covenant:

Chairperson:	Ms. Christine Chanet
Vice-Chairpersons:	Mr. Maurice Glèlè-Ahanhanzo Ms. Elisabeth Palm Mr. Hipólito Solari Yrigoyen
Rapporteur:	Mr. Ivan Shearer

9. During its eighty-fifth, eighty-sixth and eighty-seventh sessions, the Committee held nine Bureau meetings (three per session), with interpretation. Pursuant to the decision taken at the seventy-first session, the Bureau records its decisions in formal minutes, which are kept as a record of all decisions taken.

D. Special rapporteurs

10. The Special Rapporteur on new communications, Mr. Walter Kälin, registered 71 communications during the reporting period and transmitted them to the States parties concerned, and issued 6 decisions on interim measures of protection pursuant to rule 92 of the Committee's rules of procedure.

11. The Special Rapporteur for follow-up to Views, Mr. Nisuke Ando, and the Special Rapporteur for follow-up to concluding observations, Mr. Rafael Rivas Posada, continued their functions during the reporting period. During the eighty-fifth, eighty-sixth and eighty-seventh sessions, both Special Rapporteurs presented progress reports on their follow-up activities to the plenary. The reports on follow-up to Views have been consolidated in annex VII. Details on follow-up activities under the Optional Protocol and to concluding observations are respectively contained in chapters VI and VII. At the eighty-seventh session, Mr. Ando informed the Chairperson that he will complete his work as Special Rapporteur for follow-up to Views at the end of the session since it is the end of the annual cycle of the Committee's annual report. At the end of the eighty-seventh session, the Committee nominated Mr. Ivan Shearer as the new Special Rapporteur for follow-up to Views.

E. Working groups and country report task forces

12. In accordance with rules 62 and 89[3] of its rules of procedure, the Committee established a working group which met before each of its three sessions. The working group was entrusted with the task of making recommendations regarding communications received under the Optional Protocol. The former working group on article 40, entrusted with the preparation of lists of issues concerning the initial or periodic reports scheduled for consideration by the Committee, has been replaced since the seventy-fifth session (July 2002) by country report task forces.[4] Country report task forces met during the eighty-fifth, eighty-sixth and eighty-seventh sessions to consider and adopt lists of issues on the reports of Bosnia and Herzegovina, the Central African Republic, the Hong Kong Special Administrative Region (China), the Democratic Republic of Congo, Honduras, Madagascar, Norway, the Republic of Korea, Ukraine and the United States of America as well as on the situation of civil and political rights in Saint Vincent and the Grenadines (non-reporting State). During the eighty-sixth session, a task force considered and adopted a list of issues on Kosovo (Serbia) on the basis of a report submitted by the United Nations Interim Administration Mission in Kosovo (UNMIK) (see chapter III, paragraph 85).

13. The Committee benefits increasingly from information made available to it by the Office of the United Nations High Commissioner for Human Rights.

14. United Nations bodies (the Office of the United Nations High Commissioner for Refugees (UNHCR) and the United Nations Development Programme (UNDP)) and specialized agencies (the International Labour Organization (ILO) and the World Health Organization (WHO)), provided advance information on several of the reports to be considered by the Committee. To that end, country report task forces also considered material submitted by representatives of a number of international and national human rights non-governmental organizations (NGOs). The Committee welcomed the interest shown by and the participation of those agencies and organizations and thanked them for the information provided.

15. At the eighty-fifth session, the Working Group on Communications was composed of Mr. Bhagwati, Mr. Glèlè-Ahanhanzo, Mr. Johnson Lopez, Mr. Kälin, Mr. Tawfik Khalil, Ms. Palm, Mr. Rivas Posada, Mr. Solari Yrigoyen and Mr. Wieruszewski. Mr. Johnson Lopez was designated Chairperson-Rapporteur. The Working Group met from 10 to 14 October 2005.

16. At the eighty-sixth session, the Working Group on Communications was composed of Mr. Ando, Mr. Johnson Lopez, Mr. Kälin, Mr. O'Flaherty, Ms. Palm, Mr. Rivas Posada, Sir Nigel Rodley, Mr. Shearer, Mr. Solari Yrigoyen and Mr. Wieruszewski. Mr. Ando was designated Chairperson-Rapporteur. The Working Group met from 6 to 10 March 2006.

17. At the eighty-seventh session, the Working Group on Communications was composed of Mr. Bhagwati, Mr. Johnson Lopez, Mr. Kälin, Mr. Tawfik Khalil, Ms. Palm, Mr. Rivas Posada Sir Nigel Rodley, Mr. Solari Yrigoyen and Mr. Wieruszewski. Sir Nigel Rodley was designated Chairperson-Rapporteur. The Working Group met from 3 to 7 July 2006.

F. Secretary-General's recommendations for reform of the treaty bodies

18. In his second report on further reform of the United Nations system (A/57/387 and Corr.1), the Secretary-General invited the human rights treaty bodies to further streamline their reporting procedures and suggested that, to enable States to meet the challenges they faced under multiple reporting obligations, the States parties to the main human rights instruments be permitted to submit a single or consolidated report which would cover the implementation of their obligations under all the instruments they had ratified. The Committee has participated in and contributed to the discussions prompted by the Secretary-General's proposals. At its seventy-sixth session in October 2002, it set up an informal working group to analyse and discuss the proposals and report back to the plenary at the seventy-seventh session. At its seventy-seventh session in March 2003, the plenary discussed the working group's recommendations. It did not consider the concept of a single or consolidated report to be a viable one, but adopted a recommendation which, if implemented, would enable States parties to submit to the Committee focused reports on the basis of lists of issues transmitted previously to the States parties concerned. This system would be applied after the presentation, by the States parties concerned, of an initial and one periodic report.

19. The Committee was represented at informal meetings on treaty body reform which were held at Malbun, Liechtenstein, from 4 to 7 May 2003 (see HRI/ICM/2003/4) and from 14 to 16 July 2006 as well as at the second,[5] third,[6] fourth[7] and fifth Inter-Committee Meetings, respectively held from 18 to 20 June 2003, 21 to 22 June 2004, 20 to 22 June 2005 and 19 to 21 June 2006, where this matter was also given priority consideration. At the fifth Inter-Committee Meeting, Ms. Ruth Wedgwood and Mr. Michael O'Flaherty represented the Committee.

20. During its eighty-second session, at its 2246th meeting on 1 November 2004, and its eighty-third session, at its 2264th meeting on 21 March 2005, the Committee considered the proposals on guidelines on an "expanded core document" and treaty-specific targeted reports and harmonized guidelines on reporting under the international human rights treaties.[8] On 29 March 2005, the Committee held, in particular, a discussion with Mr. K. Filali, Special Rapporteur to follow up the above-mentioned draft guidelines.

21. Mr. Roman Wieruszewski and Ms. Elisabeth Palm respectively participated in the first (8 and 9 December 2005) and second meetings (15-17 February 2006) of the technical working group, established following a recommendation by the fourth Inter-Committee Meeting to finalize the draft harmonized reporting guidelines for consideration and eventual adoption by each of the committees. Both Committee members reported on the results of the technical working group at the Committee's eighty-sixth session.

22. Ms. Christine Chanet chaired the 18th Meeting of Chairpersons (22-23 June 2006) and at the same time represented the Committee.

23. During the eighty-seventh session, the Committee still discussed the concept paper on the High Commissioner's proposal for a unified standing treaty body under its methods of work and decided the establishment of an intersessional working group on the reform of treaty bodies. The working group will formulate recommendations to the Committee for its eighty-eighth session (October-November 2006).

G. Related United Nations human rights activities

24. At all of its sessions, the Committee was informed about activities of United Nations bodies dealing with human rights issues. In particular, the relevant general comments and concluding observations of the Committee on the Rights of the Child, the Committee on the Elimination of Racial Discrimination, the Committee on the Elimination of Discrimination against Women, the Committee on Economic, Social and Cultural Rights and the Committee against Torture were made available to the members of the Human Rights Committee. Relevant developments in the General Assembly and vis-à-vis the Human Rights Council were also discussed.

25. On 8 and 9 June 2006, Sir Nigel Rodley participated in a working group established following a recommendation by the seventeenth Chairpersons Meeting to consider an updated version of a report on reservations prepared by the Secretariat (HRI/MC/2005/5) and report to the fifth Inter-Committee Meeting in June 2006. Sir Nigel Rodley reported on the results of the working group at the Committee's eighty-seventh session.

26. During the eighty-sixth session, in his capacity of Rapporteur mandated to liaise with the Office of the Secretary-General's Special Adviser on the Prevention of Genocide, Mr. Solari Yrigoyen held a meeting with the Secretary-General's Special Adviser, Mr. Juan Méndez. Mr. Méndez renewed his interest in the activities of the Committee. The Committee decided to pursue its cooperation with the Secretary-General's Special Adviser.

27. The Committee notes the fact that OHCHR continued to be actively engaged in strengthening the implementation of treaty bodies' recommendations.

H. Derogations pursuant to article 4 of the Covenant

28. Article 4, paragraph 1, of the Covenant stipulates that in time of public emergency, States parties may take measures derogating from certain of their obligations under the Covenant. Pursuant to paragraph 2, no derogation is allowed from articles 6, 7, 8 (paras. 1 and 2), 11, 15, 16 and 18. Pursuant to paragraph 3, any derogation must be immediately notified to the States parties through the intermediary of the Secretary-General. A further notification is required upon the termination of the derogation.[9]

29. During the period under review, the Government of Ecuador notified other States parties, through the intermediary of the Secretary-General, on 18 August 2005, of the declaration of a state of emergency in different provinces of the country, without indicating the articles of the Covenant which were derogated from. On 22 August 2005, the Government of Ecuador extended the state of emergency in another province and a canton of the country. On 11 April 2006, the Government of Ecuador notified the Secretary-General of the declaration of a state of emergency in a number of Ecuadorian provinces, which was issued on 21 March through Executive Decree No. 1269. It also notified him that the declaration was suspended on 7 April 2006 through Executive Decree No. 1329.

30. On 15 November 2005, the Secretary-General of the United Nations was informed that the Government of France declared a state of emergency throughout the metropolitan territory. The state of emergency was terminated on 4 January 2006.

31. On 7 March 2006, the Government of Georgia notified other States parties, through the intermediary of the Secretary-General, of a Presidential decree declaring a state of emergency in a particular district, and which was approved by the Parliament of Georgia. The state of emergency was terminated on 16 March 2006.

32. On 14 October 2005, the Secretary-General of the United Nations was informed that on 6 October 2005, the Congress of Guatemala adopted a legislative decree recognizing a state of national disaster in affected areas for a period of 30 days. The articles of the Covenant which were derogated from were not indicated.

33. On 20 September 2005, the Government of Peru notified other States parties, through the intermediary of the Secretary-General, of the adoption of Decree No. 068-2005-PCM, published on 13 September 2005, which extended a state of emergency for a period of 60 days. The Government specified that during the state of emergency, articles 9, 12, 17 and 21 of the Covenant shall be suspended.

34. By notifications of 1 December 2005, 23 December 2005, 18 January 2006, 22 February 2006, 17 March 2006, 25 April 2006 and 3 July 2006, the Government of Peru extended the state of emergency in different provinces and parts of the country. In these notifications, the Government of Peru specified that the provisions of the Covenant from which it would reserve the right to derogate were articles 9, 12, 17 and 21.

35. On 24 February 2006, the Secretary-General of the United Nations was informed that the President of the Republic of the Philippines declared a state of emergency.

I. General comments under article 40, paragraph 4, of the Covenant

36. At the Committee's eighty-third session, Mr. Kälin submitted an initial revised draft general comment on article 14 of the Covenant (right to a fair trial). The draft presented by the rapporteur was discussed during the eighty-fourth, eighty-fifth, eighty-sixth and eighty-seventh sessions. During its eighty-fifth session, the Committee decided that upon adoption of the new general comment on article 14, a draft general comment on States parties' obligations under the Optional Protocol will be discussed.

J. Staff resources

37. The Committee notes that the September 2005 World Summit for the sixtieth anniversary of the United Nations positively responded to OHCHR's call for a doubling of regular budget resources over a five-year period. This commitment was immediately followed by the approval of a regular budget for 2006-2007 which will give OHCHR an additional 91 posts.

38. The High Commissioner's Plan of Action, which was released in May 2005, presented an overall vision for the future direction of OHCHR.

39. The Committee reiterates the importance of an increase of staff resources allocated to the servicing of its sessions in Geneva and New York and to support greater awareness, understanding and implementation of its recommendations at the national level.

K. Emoluments of the Committee

40. The Committee has noted with concern that since 2002 the emoluments for its members provided for in article 35 of the Covenant have been reduced by General Assembly resolution 56/272 from US$ 3.000 to the symbolic amount of US$ 1, which is in violation of the Covenant. The Committee continues to request appropriate review of the matter.

L. Publicity for the work of the Committee

41. The Chairperson, accompanied by members of the Bureau, met with the press after each of the Committee's three sessions held during the reporting period. At its eighty-third session, the Committee agreed that press conferences be prepared sufficiently in advance and that in-session press conferences be organized when relevant. Such press conferences took place during the eighty-fifth and eighty-seventh sessions.

42. The Committee notes with satisfaction that press releases summarizing the most important final decisions under the Optional Protocol were issued after the eighty-fifth and eighty-seventh sessions. This practice helps to publicize the Committee's decisions under the Optional Protocol. The Committee further welcomes the creation and continued development of an electronic listserve, through which its concluding observations on reports examined under article 40 of the Covenant and final decisions adopted under the Optional Protocol are disseminated electronically to an ever-increasing number of individuals and institutions.

43. The regular update of the OHCHR webpage on the Human Rights Committee also contributes to a better awareness of the Committee's activities by the public. Obviously, publicity for the work of the Committee must be enhanced to reinforce the protection mechanisms under the Covenant. In that context, the recent production by OHCHR of a DVD containing both a film and extensive documentation on the work of the treaty bodies is a positive initiative.

M. Publications relating to the work of the Committee

44. The Committee notes with appreciation that volumes 5, 6, 7 and 8 of the Selected Decisions under the Optional Protocol have been published and bring the jurisprudence of the Committee up to date to the July 2005 session. Such publications will make the jurisprudence of the Committee more accessible and more visible to the public, including the legal profession.

45. The Committee welcomes the information on publication of its decisions adopted under the Optional Protocol in various databases (see A/59/40, vol. I, annex VII). It appreciates the growing interest in its work shown by universities and other institutions of higher learning. It also reiterates its previous recommendation that the treaty body database of the OHCHR website (www.unhchr.ch) be equipped with adequate search functions.

N. Future meetings of the Committee

46. At its eighty-fourth session, the Committee confirmed the following schedule of future meetings in 2006: eighty-eighth session from 16 October to 3 November 2006. At its eighty-seventh session, the Committee confirmed the following schedule of future meetings in 2007: eighty-ninth session from 12 to 30 March 2007; ninetieth session from 9 to 27 July 2007; and ninety-first session from 15 October to 2 November 2007.

O. Adoption of the report

47. At its 2393rd meeting, held on 26 July 2006, the Committee considered the draft of its thirtieth annual report, covering its activities at its eighty-fifth, eighty-sixth and eighty-seventh sessions, held in 2005 and 2006. The report, as amended in the course of the discussion, was adopted unanimously. By virtue of its decision 1985/105 of 8 February 1985, the Economic and Social Council authorized the Secretary-General to transmit the Committee's annual report directly to the General Assembly.

Notes

[1] See *Official Records of the General Assembly, Forty-ninth Session, Supplement No. 40* (A/49/40), vol. I, paras 48 and 49.

[2] Mauritania - Reservations: "Article 18 [...] the Mauritanian Government, while accepting the provisions set out in article 18 concerning freedom of thought, conscience and religion, declares that their application shall be without prejudice to the Islamic sharia - article 23.4 [...] The Mauritanian Government interprets the provisions of article 23, paragraph 4, on the rights and responsibilities of spouses as to marriage as not affecting in any way the prescriptions of the Islamic sharia."

[3] Rule 95 of the revised rules of procedures.

[4] See *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 40* (A/57/40), vol. I, para. 56 and annex III, sect. B.

[5] See ibid., *Fifty-eighth Session, Supplement No. 40* (A/58/40), vol. I, paras. 63 and 64.

[6] See ibid., *Fifty-ninth Session, Supplement No. 40* (A/59/40), vol. I, paras. 20-23.

[7] See ibid., *Sixtieth Session, Supplement No. 40* (A/60/40), vol. I, para. 20

[8] See ibid., paras. 21 and 22 and HRI/MC/2004/3.

[9] *Sixtieth Session, Supplement No. 40* (A/60/40), vol. I, chap. I, H.

CHAPTER II. METHODS OF WORK OF THE COMMITTEE UNDER ARTICLE 40 OF THE COVENANT AND COOPERATION WITH OTHER UNITED NATIONS BODIES

48. The present chapter summarizes and explains the modifications introduced by the Committee to its working methods under article 40 of the Covenant in recent years, as well as recent decisions adopted by the Committee on follow-up to its concluding observations on State party reports.

A. Recent developments and decisions on procedures

49. In March 1999, the Committee decided that the lists of issues for the examination of States parties' reports should henceforth be adopted at the session prior to the examination of the report, thereby allowing a period of at least two months for States parties to prepare for the discussion with the Committee. Central to the consideration of States parties' reports is the oral hearing, where the delegations of States parties have the opportunity to respond to the list of issues and answer supplementary questions from Committee members. States parties are directed to use the list of issues to prepare better for the constructive dialogue with the Committee. While they are not required to submit written answers to the list of issues, they are encouraged to do so. At its eighty-sixth session, the Committee decided that States parties submitting written replies be encouraged to limit them to a total of 30 pages, without preventing further oral replies by the States parties delegations, and to send written replies at least three weeks prior the examination of reports in order to enable their translation.

50. In October 1999, the Committee adopted new consolidated guidelines on State party reports, which replaced all previous guidelines and which are designed to facilitate the preparation of initial and periodic reports by States parties. The guidelines provide for comprehensive initial reports prepared on an article-by-article basis, and focused periodic reports geared primarily to the Committee's concluding observations on the previous report of the State party concerned. In their periodic reports, States parties need not report on every article of the Covenant, and should concentrate on those provisions identified by the Committee in its concluding observations and those articles in respect of which there have been significant developments since the submission of the previous report. The revised consolidated guidelines were issued as document CCPR/C/66/GUI/Rev.2 of 26 February 2001.[1]

51. For several years, the Committee has expressed concern about the number of overdue reports and non-compliance by States parties with their obligations under article 40 of the Covenant.[2] Two working groups of the Committee proposed amendments to the rules of procedure, which are aimed at helping States parties to fulfil their reporting obligations and designed to simplify the procedure. These amendments were formally adopted during the seventy-first session in March 2001, and the revised rules of procedure were issued (CCPR/C/3/Rev.6 and Corr.1).[3] All States parties were informed of the amendments to the rules of procedure, and the Committee has applied the revised rules since the end of the seventy-first session (April 2001). The Committee recalls that general comment No. 30, adopted at the seventy-fifth session, spells out the States parties' obligations under article 40 of the Covenant.[4]

52. The amendments introduce procedures for dealing with situations of States parties that have failed to honour their reporting obligations for a long time, or that have chosen to request a postponement of their scheduled appearance before the Committee at short notice. In both situations, the Committee may henceforth serve notice on the States concerned that it intends to examine, from material available to it, the measures adopted by that State party with a view to giving effect to the provisions of the Covenant, even in the absence of a report. The amended rules of procedure further introduce a follow-up procedure to the concluding observations of the Committee: rather than fixing a set time limit for its next report in the last paragraph of the concluding observations, the State party will be requested to report back to the Committee within a specified period with responses to the Committee's recommendations, indicating what steps, if any, it has taken to give effect to the recommendations. Such responses will thereafter be examined by the Special Rapporteur for follow-up to concluding observations, and result in the determination of a definitive time limit for the presentation of the next report. Since the seventy-sixth session, the Committee has examined the progress reports submitted by the Special Rapporteur on a sessional basis.[5]

53. The Committee first applied the new procedure to a non-reporting State at its seventy-fifth session. On July 2002, it examined the measures taken by the Gambia to give effect to the rights recognized in the Covenant without a report, and in the absence of a delegation from the State party. It adopted provisional concluding observations on the situation of civil and political rights in the Gambia, which were transmitted to the State party. At the seventy-eighth session, the Committee discussed the status of the provisional concluding observations on the Gambia and requested the State party to submit a periodic report by 1 July 2004 that should specifically address the concerns identified in the Committee's provisional concluding observations. Failure to submit such a report within the deadline set by the Committee would result in the conversion of the provisional concluding observations into final ones, and their general dissemination. On 8 August 2003, the Committee amended rule 69A of its rules of procedure[6] to provide for the possibility of converting provisional concluding observations into final and public ones. At the end of the eighty-first session, the Committee decided to convert the provisional concluding observations of the Gambia into final and public ones since it had failed to submit its second periodic report.

54. At its seventy-sixth session (October 2002), the Committee considered the situation of civil and political rights in Suriname in the absence of a report, but in the presence of a delegation. On 31 October 2002, it adopted provisional concluding observations, which were transmitted to the State party. Pursuant to the provisional concluding observations, the Committee invited the State party to submit its second periodic report within six months. The State party submitted its report within the deadline set by the Committee. The Committee considered the second periodic report of Suriname at its eightieth session (March 2004) and adopted concluding observations.

55. At its seventy-ninth (October 2003) and eighty-first (July 2004) sessions the Committee examined the situation of civil and political rights in, respectively, Equatorial Guinea and the Central African Republic, in the absence both of a report and a delegation in the first case, and in the absence of a report but with the presence of a delegation in the second case. Provisional concluding observations were transmitted to the States parties concerned. At the end of the eighty-first session, the Committee decided to convert the provisional concluding observations on the country situation of Equatorial Guinea into final and public ones since it had failed to submit its initial report. On 11 April 2005, in conformity with its assurances made to the

Committee during the examination of the country situation at the eighty-first session, the Central African Republic submitted its second periodic report. The Committee considered the report at its eighty-seventh session (July 2006) and adopted concluding observations.

56. At its eightieth session (March 2004), the Committee decided to consider the situation of civil and political rights in Kenya at its eighty-second session (October 2004), as Kenya had not submitted its second periodic report, due on 11 April 1986. On 27 September 2004, Kenya submitted its second periodic report. The Committee considered the second periodic report of Kenya at its eighty-third session (March 2005) and adopted concluding observations.

57. At its eighty-third session, the Committee examined the situation of civil and political rights in Barbados, in the absence of a report but with the presence of a delegation, which pledged to submit a full report. Provisional concluding observations were sent to the State party. On 18 July 2006, Barbados submitted its third periodic report. As Nicaragua had not submitted its third periodic report, due on 11 June 1997, the Committee decided, at its eighty-third session, to consider the situation of civil and political rights in Nicaragua at its eighty-fifth session (October 2005). On 9 June 2005, Nicaragua made assurances to the Committee that it would submit its report by 31 December 2005. Then on 17 October 2005, Nicaragua informed the Committee that it would submit its report by 30 September 2006. At its eighty-fifth session (October 2006), the Committee requested Nicaragua to submit its report by 30 June 2006.

58. At its eighty-sixth session (March 2006), the Committee examined the situation of civil and political rights in Saint Vincent and the Grenadines, in the absence of a report but with the presence of a delegation. Provisional concluding observations were sent to the State party. Pursuant to the provisional concluding observations, the Committee invited the State party to submit its second periodic report by 1 April 2007. As San Marino had not submitted its second periodic report, due on 17 January 1992, the Committee decided, at its eighty-sixth session, to consider the situation of civil and political rights in San Marino at its eighty-eighth session (October 2006). On 25 May 2006, San Marino made assurances to the Committee that it would submit its report by 30 September 2006.

59. As Rwanda had not submitted its third periodic report and a special report, due respectively on 10 April 1992 and 31 January 1995, the Committee decided, at its eighty-seventh session, to consider the situation of civil and political rights in Rwanda at its eighty-ninth session (March 2007).

60. At its seventy-fourth session, the Committee adopted decisions which spell out the modalities for following up on concluding observations.[7] At the seventy-fifth session, the Committee designated Mr. Yalden as its Special Rapporteur for follow-up to concluding observations. At the eighty-third session, Mr. Rivas Posada succeeded Mr. Yalden.

61. Also at the seventy-fourth session, the Committee adopted a number of decisions on working methods designed to streamline the procedure for the examination of reports under article 40.[8] The principal innovation consists in the establishment of country report task forces, consisting of no fewer than four and no more than six Committee members who will have the main responsibility for the conduct of debates on a State party report. The Committee notes that the establishment of these country report task forces has enhanced the quality of the dialogue with delegations during the examination of State party reports. The first country report task forces were convened during the seventy-fifth session.

B. Concluding observations

62. Since its forty-fourth session in March 1992[9] the Committee has adopted concluding observations. It takes concluding observations as a starting point in the preparation of the list of issues for the examination of the subsequent State party report. In some cases, the Committee has received comments on its concluding observations and replies to the concerns identified by the Committee under rule 71, paragraph 5, of its revised rules of procedure from the States parties concerned, which are issued in document form. During the period under review such comments were received from Albania, Belgium, Benin, Colombia, El Salvador, Kenya, Mauritius, Philippines, Poland, Serbia and Montenegro, Sri Lanka, Tajikistan, Togo and Uganda. These State party replies have been issued as documents and are available from the Committee's secretariat, or may be consulted on the OHCHR website (www.unhchr.ch, treaty body database, documents, category "concluding observations"). Chapter VII of the present report summarizes activities relating to follow-up to concluding observations and States parties' replies.

C. Links to other human rights treaties and treaty bodies

63. The Committee views the annual meeting of persons chairing the human rights treaty bodies as a forum for the exchange of ideas and information on procedures and logistical problems, streamlining of working methods, improved cooperation among treaty bodies, and for stressing the necessity of obtaining adequate secretariat services to enable all treaty bodies to fulfil their mandates effectively.

64. The eighteenth meeting of treaty body chairpersons was convened in Geneva on 22 and 23 June 2006 and was chaired by Ms. Christine Chanet.

65. The fifth inter-committee meeting was held in Geneva from 19 to 21 June 2006. It brought together representatives from each of the human rights treaty bodies. The Committee was represented by Mr. Rivas Posada and Mr. O'Flaherty. On behalf of Ms. Christine Chanet, Mr. Rivas Posada chaired the inter-committee meeting. Discussions focused in particular on the draft harmonized reporting guidelines (see chapter I, section F).

D. Cooperation with other United Nations bodies

66. At its eighty-sixth session (March 2006), the Committee established a mandate of Rapporteur to liaise with United Nations specialized agencies and programmes to facilitate more effective interaction on country specific as well as thematic issues and follow-up. Mr. O'Flaherty was designated Rapporteur.

Notes

[1] The *Official Records of the General Assembly, Fifty-sixth Session, Supplement No. 40* (A/56/40), vol. I, annex III, sect. A.

[2] See ibid., chap. III, sect. B and ibid., *Fifty-seventh Session, Supplement No. 40* (A/57/40), chap. III, sect. B.

[3] See ibid., *Fifty-sixth Session, Supplement No. 40* (A/56/40), vol. I, annex III, sect. B.

[4] See ibid., *Fifty-seventh Session, Supplement No. 40* (A/57/40), vol. I, annex VI.

[5] Except for the eighty-third session, when a new Special Rapporteur was designated.

[6] Rule 70 of the revised rules of procedure.

[7] See *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 40* (A/57/40), vol. I, annex III, sect. A.

[8] See ibid., vol. I, annex III, sect. B.

[9] See ibid., *Forty-seventh Session, Supplement No. 40* (A/47/40), chap. I, sect. E, para. 18.

CHAPTER III. SUBMISSION OF REPORTS

67. Under article 2, paragraph 1, of the International Covenant on Civil and Political Rights, each State party undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the Covenant. In connection with this provision, article 40, paragraph 1, of the Covenant requires States parties to submit reports on the measures adopted and the progress achieved in the enjoyment of the various rights and on any factors and difficulties that may affect the implementation of the Covenant. States parties undertake to submit reports within one year of the entry into force of the Covenant for the State party concerned and, thereafter, whenever the Committee so requests. Under the Committee's current guidelines, adopted at the sixty-sixth session and amended at its seventieth session (CCPR/C/GUI/66/Rev.2), the five-year periodicity in reporting, which the Committee itself had established at its thirteenth session in July 1981 (CCPR/C/19/Rev.1), was replaced by a flexible system whereby the date for the subsequent periodic report by a State party is set on a case-by-case basis at the end of the Committee's concluding observations on any report, in accordance with article 40 of the Covenant and in the light of the guidelines for reporting and the working methods of the Committee.

A. Reports submitted to the Secretary-General from August 2005 to July 2006

68. During the period covered by the present report, 11 reports were submitted to the Secretary-General by the following States parties and United Nations entity: Austria (fourth periodic), Barbados (third periodic), Bosnia and Herzegovina (initial report), Chile (fifth periodic), Costa Rica (fifth periodic), Czech Republic (second periodic), Libyan Arab Jamahiriya (fourth periodic), Sudan (third periodic), Ukraine (sixth periodic), Zambia (third periodic) and the United Nations Interim Administration Mission in Kosovo (core common document and treaty-specific report) on the human rights situation in Kosovo (Serbia).

B. Overdue reports and non-compliance by States parties with their obligations under article 40

69. States parties to the Covenant must submit the reports referred to in article 40 of the Covenant on time so that the Committee can duly perform its functions under that article. Those reports are the basis for the discussion between the Committee and States parties on the human rights situation in States parties. Regrettably, serious delays have been noted since the establishment of the Committee.

70. The Committee is faced with a problem of overdue reports, notwithstanding the Committee's revised reporting guidelines and other significant improvements in its working methods. The Committee has agreed that more than one periodic report submitted by a State party may be considered jointly. Under the Committee's reporting guidelines, the date for the submission of the next periodic report is stated in the concluding observations.

71. The Committee notes with concern that the failure of States parties to submit reports hinders the Committee in the performance of its monitoring functions under article 40 of the Covenant. The list below identifies the States parties that have a report more than five years

overdue, as well as those that have not submitted reports requested by a special decision of the Committee. The Committee reiterates that these States are in default of their obligations under article 40 of the Covenant.

States parties that have reports more than five years overdue (as at 31 July 2006) or that have not submitted a report requested by a special decision of the Committee

State party	Type of report	Date due	Years overdue
Gambia[a]	Second	21 June 1985	21
Equatorial Guinea[b]	Initial	24 December 1988	17
Somalia	Initial	23 April 1991	15
Nicaragua[c]	Third	11 June 1991	15
Saint Vincent and the Grenadines[d]	Second	31 October 1991	14
San Marino[e]	Second	17 January 1992	14
Panama[f]	Third	31 March 1992	14
Rwanda[g]	Third/Special	10 April 1992/ 31 January 1995	14
Grenada	Initial	5 December 1992	13
Côte d'Ivoire	Initial	25 June 1993	13
Seychelles	Initial	4 August 1993	12
Angola	Initial/Special	9 April 1993/ 31 January 1994	12
Niger	Second	31 March 1994	12
Afghanistan	Third	23 April 1994	12
Ethiopia	Initial	10 September 1994	11
Dominica	Initial	16 September 1994	11
Guinea	Third	30 September 1994	11
Mozambique	Initial	20 October 1994	11
Cape Verde	Initial	5 November 1994	11
Bulgaria	Third	31 December 1994	11
Iran (Islamic Republic of)	Third	31 December 1994	11
Malawi	Initial	21 March 1995	11
Burundi	Second	8 August 1996	9
Chad	Initial	8 September 1996	9
Haiti	Initial	30 December 1996	9

State party	Type of report	Date due	Years overdue
Jordan	Fourth	27 January 1997	9
Malta	Initial	12 December 1996	9
Belize	Initial	9 September 1997	8
Nepal	Second	13 August 1997	8
Sierra Leone	Initial	22 November 1997	8
Tunisia	Fifth	4 February 1998	8
Turkmenistan	Initial	31 July 1998	8
Romania	Fifth	28 April 1999	7
Spain	Fifth	28 April 1999	7
Nigeria	Second	28 October 1999	6
Bolivia	Third	31 December 1999	6
Lebanon	Third	31 December 1999	6
South Africa	Initial	9 March 2000	6
Burkina Faso	Initial	3 April 2000	6
Iraq	Fifth	4 April 2000	6
Senegal	Fifth	4 April 2000	6
Algeria	Third	1 June 2000	6
The former Yugoslav Republic of Macedonia	Second	1 June 2000	6
France	Fourth	31 December 2000	5
Ghana	Initial	8 February 2001	5
Ecuador	Fifth	1 June 2001	5

[a] The Committee considered the situation of civil and political rights in the Gambia during its seventy-fifth session in the absence of a report and a delegation. Provisional concluding observations were sent to the State party. At the end of the eighty-first session, the Committee decided to convert them into final and public ones (see chapter II).

[b] The situation of civil and political rights in Equatorial Guinea was considered during the seventy-ninth session without a report and delegation. Provisional concluding observations were sent to the State party. At the end of the eighty-first session, the Committee decided to convert them into final and public ones (see chapter II).

[c] At its eighty-third session (March 2005), the Committee decided to consider the situation of civil and political rights at its eighty-fifth session (October 2005). On 9 June 2005, Nicaragua made assurances to the Committee that it would submit its report by 31 December 2005. Then on 17 October 2005, Nicaragua informed the Committee that it would submit its report by 30 September 2006. At its eighty-fifth session (October 2005), the Committee requested Nicaragua to submit its report by 30 June 2006 (see chapter II).

[d] The situation of civil and political rights in Saint Vincent and the Grenadines was considered during the eighty-sixth session in the absence of a report but in the presence of a delegation. Provisional concluding observations were sent to the State party, with a request to submit its second periodic report by 1 April 2007 (see chapter II).

[e] At its eighty-sixth session (March 2006), the Committee decided to consider the situation of civil and political rights in San Marino at its eighty-eighth session (October 2006). On 25 May 2006, San Marino made assurances to the Committee that it would submit its report by 30 September 2006 (see chapter II).

[f] On 7 July 2006, Panama informed the Committee that a OHCHR training on reporting obligations would be organized in August 2006 to enable the drafting of inter alia its third periodic report and its submission in December 2006.

[g] As Rwanda had not submitted its third periodic report and a special report, due respectively on 10 April 1992 and 31 January 1995, the Committee decided, at its eighty-seventh session, to consider the situation of civil and political rights in Rwanda at its eighty-ninth session (March 2007) (see chapter II).

72. The Committee once again draws particular attention to 28 initial reports that have not yet been presented (including the 20 overdue initial reports listed above). The result is to frustrate a major objective of the Covenant, which is to enable the Committee to monitor compliance by States parties with their obligations under the Covenant, on the basis of States parties' reports. The Committee addresses reminders at regular intervals to all those States parties whose reports are significantly overdue.

73. With respect to the circumstances that are set out in chapter II, paragraphs 56 and 57, the amended rules of procedure now enable the Committee to consider the compliance by States parties that have failed to submit reports under article 40, or that have requested a postponement of their scheduled appearance before the Committee.

74. At its 1860th meeting, on 24 July 2000, the Committee decided to request Kazakhstan to present its initial report by 31 July 2001, notwithstanding the fact that no instrument of succession or accession had been received from Kazakhstan following its independence. By the time of the adoption of the present report, the initial report of Kazakhstan had still not been received. The Committee once again invites the Government of Kazakhstan to submit its initial report under article 40 at its earliest convenience. In this context, it welcomes the ratification of the Covenant by Kazakhstan on 24 January 2006.

CHAPTER IV. CONSIDERATION OF REPORTS

75. The following sections, arranged on a country-by-country basis in the sequence followed by the Committee in its consideration of the reports, contain the concluding observations adopted by the Committee with respect to the States parties' reports considered at its eighty-second, eighty-third and eighty-fourth sessions. The Committee urges those States parties to adopt corrective measures, where indicated, consistent with their obligations under the Covenant and to implement these recommendations. Part B relates to the concluding observations on the report on Kosovo (Serbia) submitted by the United Nations Interim Administration Mission in Kosovo (UNMIK).

A. Concluding observations on State reports examined during the reporting period

76. **Canada**

(1) The Human Rights Committee considered the fifth periodic report of Canada (CCPR/C/CAN/2004/5) at its 2312th and 2313th meetings (CCPR/C/SR.2312-2313), on 17 and 18 October 2005, and adopted the following concluding observations at its 2328th and 2330th meetings (CCPR/C/SR.2328 and 2330), on 27 and 28 October 2005.

Introduction

(2) The Committee welcomes the timely submission of Canada's fifth periodic report, which was elaborated in conformity with the reporting guidelines, and contains information on national jurisprudence and relating to the Committee's previous concluding observations.

(3) The Committee further appreciates the attendance of a delegation composed of experts in various fields relevant to the Covenant, some of them coming from Canadian provinces, and welcomes their efforts to answer to the Committee's written and oral questions.

Positive aspects

(4) The Committee notes with appreciation that Canada acceded to the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women in 2002, and ratified the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography in 2005.

(5) The Committee appreciates the fact that Canada has a vigorous civil society, which plays an important role in the promotion of human rights, both at the national and international levels.

Principal subjects of concern and recommendations

(6) The Committee notes with concern that many of the recommendations it addressed to the State party in 1999 remain unimplemented. It also regrets that the Committee's previous concluding observations have not been distributed to members of Parliament and that no parliamentary committee has held hearings on issues arising from the Committee's observations, as anticipated by the delegation in 1999 (art. 2).

The State party should establish procedures, by which oversight of the implementation of the Covenant is ensured, with a view, in particular, to reporting publicly on any deficiencies. Such procedures should operate in a transparent and accountable manner, and guarantee the full participation of all levels of government and of civil society, including indigenous peoples.

(7) The Committee notes with concern the State party's reluctance to consider that it is under an obligation to implement the Committee's requests for interim measures of protection. The Committee recalls that, in acceding to the Optional Protocol, the State party recognized the Committee's competence to receive and examine complaints from individuals under the State party's jurisdiction. Disregard of the Committee's requests for interim measures is inconsistent with the State party's obligations under the Covenant and the Optional Protocol.

The State party should adhere to its obligations under the Covenant and the Optional Protocol, in accordance with the principle of *pacta sunt servanda*, and take the necessary measures to avoid similar violations in future.

(8) The Committee, while noting with interest Canada's undertakings towards the establishment of alternative policies to extinguishment of inherent aboriginal rights in modern treaties, remains concerned that these alternatives may in practice amount to extinguishment of aboriginal rights (arts. 1 and 27).

The State party should re-examine its policy and practices to ensure they do not result in extinguishment of inherent aboriginal rights. The Committee would also like to receive more detailed information on the comprehensive land claims agreement that Canada is currently negotiating with the Innu people of Quebec and Labrador, in particular regarding its compliance with the Covenant.

(9) The Committee is concerned that land claim negotiations between the Government of Canada and the Lubicon Lake Band are currently at an impasse. It is also concerned about information that the land of the Band continues to be compromised by logging and large-scale oil and gas extraction, and regrets that the State party has not provided information on this specific issue (arts. 1 and 27).

The State party should make every effort to resume negotiations with the Lubicon Lake Band, with a view to finding a solution which respects the rights of the Band under the Covenant, as already found by the Committee. It should consult with the Band before granting licences for economic exploitation of the disputed land, and ensure that in no case such exploitation jeopardizes the rights recognized under the Covenant.

(10) The Committee, while noting the responses provided by the State party in relation to the preservation, revitalization and promotion of Aboriginal languages and cultures, remains concerned about the reported decline of Aboriginal languages in Canada (art. 27).

The State party should increase its efforts for the protection and promotion of Aboriginal languages and cultures. It should provide the Committee with statistical

data or an assessment of the current situation, as well as with information on action taken in the future to implement the recommendations of the Task Force on Aboriginal Languages and on concrete results achieved.

(11) The Committee regrets that its previously expressed concern relating to the inadequacy of remedies for violations of articles 2, 3 and 26 of the Covenant remains unaddressed. It is concerned that human rights commissions still have the power to refuse referral of a human rights complaint for adjudication and that legal aid for access to courts may not be available.

The State party should ensure that the relevant human rights legislation is amended at federal, provincial and territorial levels and its legal system enhanced, so that all victims of discrimination have full and effective access to a competent tribunal and to an effective remedy.

(12) The Committee, while noting the existence of a social protest protection clause, expresses concern about the wide definition of terrorism under the Anti-Terrorism Act.

The State party should adopt a more precise definition of terrorist offences, so as to ensure that individuals will not be targeted on political, religious or ideological grounds, in connection with measures of prevention, investigation or detention.

(13) The Committee notes with concern that the amendments to the Canada Evidence Act introduced by the Anti-Terrorism Act (sect. 38), relating to the non-disclosure of information in connection with or during the course of proceedings, including criminal proceedings, which could cause injury to international relations, national defence or national security, do not fully abide by the requirements of article 14 of the Covenant.

The State party should review the Canada Evidence Act so as to guarantee the right of all persons to a fair trial, and in particular, to ensure that individuals cannot be condemned on the basis of evidence to which they, or those representing them, do not have full access. The State party, bearing in mind the Committee's general comment No. 29 (2001) on states of emergency, should in no case invoke exceptional circumstances as justification for deviating from fundamental principles of fair trial.

(14) The Committee is concerned by the rules and practices governing the issuance of "security certificates" under the Immigration and Refugee Protection Act, enabling the arrest, detention and expulsion of immigrants and refugees on grounds of national security. The Committee is concerned that, under such rules and practices, some people have been detained for several years without criminal charges, without being adequately informed about the reasons for their detention, and with limited judicial review. It is also concerned about the mandatory detention of foreign nationals who are not permanent residents (arts. 7, 9 and 14).

The State party should ensure that administrative detention under security certificates is subject to a judicial review that is in accordance with the requirements of article 9 of the Covenant, and legally determine a maximum length

of such detention. The State party should also review its practice with a view to ensuring that persons suspected of terrorism or any other criminal offences are detained pursuant to criminal proceedings in compliance with the Covenant. It should also ensure that detention is never mandatory but decided on a case-by-case basis.

(15) The Committee is concerned by the State party's policy that, in exceptional circumstances, persons can be deported to a country where they would face the risk of torture or cruel, inhuman or degrading treatment, which amounts to a grave breach of article 7 of the Covenant.

The State party should recognize the absolute nature of the prohibition of torture, cruel, inhuman or degrading treatment, which in no circumstances can be derogated from. Such treatments can never be justified on the basis of a balance to be found between society's interest and the individual's rights under article 7 of the Covenant. No person, without any exception, even those suspected of presenting a danger to national security or the safety of any person, and even during a state of emergency, may be deported to a country where he/she runs the risk of being subjected to torture or cruel, inhuman or degrading treatment. The State party should clearly enact this principle into its law.

(16) While appreciating the firm denial by the delegation, the Committee is concerned by allegations that Canada may have cooperated with agencies known to resort to torture with the aim of extracting information from individuals detained in foreign countries. It notes that a public inquiry is under way regarding the role of Canadian officials in the Maher Arar case, a Canadian citizen arrested in the United States of America and deported to the Syrian Arab Republic where he was reportedly tortured. The Committee regrets however that insufficient information was provided as to whether cases of other Canadians of foreign origin detained, interrogated and allegedly tortured are the subject of that or any other inquiry (art. 7).

The State party should ensure that a public and independent inquiry review all cases of Canadian citizens who are suspected terrorists or suspected to be in possession of information in relation to terrorism, and who have been detained in countries where it is feared that they have undergone or may undergo torture and ill-treatment. Such inquiry should determine whether Canadian officials have directly or indirectly facilitated or tolerated their arrest and imprisonment.

(17) The Committee is concerned about information that, in some provinces and territories, people with mental disabilities or illness remain in detention because of the insufficient provision of community-based supportive housing (arts. 2, 9, 26).

The State party, including all governments at the provincial and territorial level, should increase its efforts to ensure that sufficient and adequate community based housing is provided to people with mental disabilities, and ensure that the latter are not under continued detention when there is no longer a legally based medical reason for such detention.

(18) The Committee expresses concern about the situation of women prisoners, in particular Aboriginal women, women belonging to ethnic minorities and women with disabilities. While welcoming the information provided by the State party on measures adopted or planned in response to the findings of the Canadian Human Rights Commission, the Committee remains concerned by the decision of the authorities to maintain the practice of employing male front-line staff in women's institutions (arts. 2, 3, 10 and 26).

The State party should put an end to the practice of employing male staff working in direct contact with women in women's institutions. It should provide substantial information on the implementation of the recommendations of the Canadian Human Rights Commission as well as on concrete results achieved, in particular regarding the establishment of an independent external redress body for federally sentenced offenders and independent adjudication for decisions related to involuntary segregation, or alternative models.

(19) The Committee notes with concern that the Youth Criminal Justice Act enables imprisonment of persons under 18 with adults if serving an adult sentence (arts. 10 and 24).

The State party should ensure that no person under 18 years of age is tried as an adult, and that no such person can be held together with adults in correctional facilities, whether federal, provincial or territorial.

(20) The Committee is concerned about information that the police, in particular in Montreal, have resorted to large-scale arrests of demonstrators. It notes the State party's responses that none of the arrests in Montreal have been arbitrary since they were conducted on a legal basis. The Committee, however, recalls that arbitrary detention can also occur when the deprivation of liberty results from the exercise of the rights or freedoms guaranteed by the Covenant, in particular under articles 19 and 21 (arts. 9, 19, 21 and 26).

The State party should ensure that the right of persons to peacefully participate in social protests is respected, and ensure that only those committing criminal offences during demonstrations are arrested. The Committee also invites the State party to conduct an inquiry into the practices of the Montreal police forces during demonstrations, and wishes to receive more details about the practical implementation of article 63 of the Criminal Code relating to unlawful assembly.

(21) The Committee expresses concern about the State party's responses relating to the Committee's Views in the case *Waldman v. Canada* (Communication No. 694/1996, Views adopted on 3 November 1999), requesting that an effective remedy be granted to the author eliminating discrimination on the basis of religion in the distribution of subsidies to schools (arts. 2, 18 and 26).

The State party should adopt steps in order to eliminate discrimination on the basis of religion in the funding of schools in Ontario.

(22) The Committee notes with concern that the Canadian Human Rights Act cannot affect any provision of the Indian Act or any provision made under or pursuant to that Act, thus allowing discrimination to be practised as long as it can be justified under the Indian Act. It is concerned that the discriminatory effects of the Indian Act against Aboriginal women and their

children in matters of reserve membership have still not been remedied, and that the issue of matrimonial real property on reserve lands has still not been properly addressed. While stressing the obligation of the State party to seek the informed consent of indigenous peoples before adopting decisions affecting them and welcoming the initiatives taken to that end, the Committee observes that balancing collective and individual interests on reserves to the sole detriment of women is not compatible with the Covenant (arts. 2, 3, 26 and 27).

The State party should repeal section 67 of the Canadian Human Rights Act without further delay. The State party should, in consultation with Aboriginal peoples, adopt measures ending discrimination actually suffered by Aboriginal women in matters of reserve membership and matrimonial property, and consider this issue as a high priority. The State party should also ensure equal funding of Aboriginal men and women associations.

(23) The Committee is concerned that Aboriginal women are far more likely to experience a violent death than other Canadian women. While noting the State party's numerous programmes aimed at addressing the issue, the Committee regrets the lack of precise and updated statistical data on violence against Aboriginal women, and notes with concern the reported failure of police forces to recognize and respond adequately to the specific threats faced by them (arts. 2, 3, 6, 7 and 26).

The State party should gather accurate statistical data throughout the country on violence against Aboriginal women, fully address the root causes of this phenomenon, including the economic and social marginalization of Aboriginal women, and ensure their effective access to the justice system. The State party should also ensure that prompt and adequate response is provided by the police in such cases, through training and regulations.

(24) The Committee is concerned by information that severe cuts in welfare programmes have had a detrimental effect on women and children, for example in British Columbia, as well as on Aboriginal people and Afro-Canadians (arts. 3, 24 and 26).

The State party should adopt remedial measures to ensure that cuts in social programmes do not have a detrimental impact on vulnerable groups.

(25) The Committee sets 31 October 2010 as the date for the submission of Canada's sixth periodic report. It requests that the State party's fifth periodic report and the present concluding observations be published and widely disseminated in Canada, to the general public as well as to the judicial, legislative and administrative authorities, and that the sixth periodic report be circulated for the attention of the non-governmental organizations operating in the country.

(26) In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should submit within one year information on the follow-up given to the Committee's recommendations in paragraphs 12, 13, 14 and 18 above. The Committee requests the State party to include in its next periodic report information on its remaining recommendations and on the implementation of the Covenant as a whole. The State party is encouraged to increase its efforts to provide the Committee with more detailed information on concrete results achieved.

77. **Paraguay**

(1) The Committee considered the second periodic report of Paraguay (CCPR/C/PRY/2004/2 and HRI/CORE/1/Add.24) at its 2315th, 2316th and 2317th meetings (CCPR/C/SR.2315, 2316 and 2317), held on 19 and 20 October 2005, and, at its 2330th meeting (CCPR/C/SR.2330), held on 28 October 2005, adopted the following concluding observations.

Introduction

(2) The Committee welcomes the submission of the second periodic report of Paraguay and the State party's willingness to resume a dialogue. While the report provides detailed information about the State party's legislation on civil and political rights, the Committee regrets that it was submitted six years late and does not provide sufficient information on how the Covenant is actually applied.

Positive aspects

(3) The Committee welcomes the abolition of the death penalty and the ratification without reservations of the second Optional Protocol to the International Covenant on Civil and Political Rights.

(4) The Committee further welcomes the ratification by the State party of the Statute of the International Criminal Court and other international instruments: the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the two optional protocols to the Convention on the Rights of the Child and the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women.

(5) The Committee welcomes the legislative reforms made by the State party to bring its laws into line with the Covenant, in particular the adoption of the new Criminal Code (1997), the new Code of Criminal Procedure (1998) and the Children's Code (2001), and the adoption of an adversarial criminal justice system.

(6) The Committee welcomes the fact that non-governmental organizations have been granted access to places of detention and internment.

Principal subjects of concern and recommendations

(7) While welcoming the establishment of the Truth and Justice Commission to investigate the most serious human rights violations of the past, the Committee regrets the lack of proper State funding and the fact the Commission's mandate (18 months) appears to be too short to accomplish its objectives (article 2 of the Covenant).

> **The State party should ensure that the Commission has sufficient time and resources to carry out its mandate.**

(8) The Committee notes with interest the progress made in legislation against gender discrimination, the establishment of the Secretariat for Women and other institutions. It regrets, however, that discrimination against women persists in practice. A representative example is the discrimination against women where working conditions are concerned (articles 3, 25 and 26 of the Covenant).

The State party should ensure that legislation protecting against gender discrimination is enforced and that the institutions created for that purpose are adequately financed for effective operation. The State party should likewise take steps to ensure equal working conditions for men and women and to increase participation by women in all areas of public and private life.

(9) While welcoming the passage of an Act against domestic violence, the Committee regrets that domestic violence, including sexual abuse, is still a recurrent practice, and that the aggressors go unpunished (articles 3 and 7 of the Covenant).

The State party should take appropriate steps to combat domestic violence and ensure that those responsible are prosecuted and appropriately punished. It is invited to educate the population at large about the need to respect women's rights and dignity.

(10) While noting the action taken by the State party on the subject of family planning, the Committee is still concerned about high infant and maternal mortality rates, especially in rural areas. The Committee reiterates its concern about Paraguay's restrictive abortion laws, which induce women to seek unsafe, illegal abortions, at potential risk of their life and health (articles 6 and 24 of the Covenant).

The State party should take effective action to reduce infant and maternal mortality by, inter alia, revising its legislation on abortion to bring it into line with the Covenant, and ensuring that contraceptives are available to the general public, especially in rural areas.

(11) The Committee notes with concern the persistent excessive use of force, including beatings and killings, by security forces and prison staff. It is also concerned that most of the national police purchase their own weapons without any kind of State checks. This situation, combined with a failure to punish wrongdoing and the lack of training for the security forces, encourages the disproportionate use of firearms resulting in unlawful deaths (articles 6 and 7 of the Covenant).

The State party should supply and keep a check on all weapons belonging to police forces. Appropriate human rights training should be given to law enforcement personnel in accordance with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. The State party should ensure that allegations of excessive use of force are thoroughly investigated and the culprits prosecuted. Victims of such methods should receive fair and adequate compensation.

(12) While welcoming the establishment of Special Human Rights Units within the Public Prosecutor's Office, the Committee regrets that none of the 56 cases of torture investigated by this Office have resulted in prosecutions of those responsible for torture (article 7 of the Covenant).

The State party should prosecute those responsible for torture and ensure that they are appropriately punished. Victims of such treatment should receive fair and adequate compensation.

(13) The Committee is disturbed by the persistent trafficking of women and children for purposes of sexual exploitation in the State party, especially in the triple border region (articles 3, 8 and 24 of the Covenant).

The State party should take urgent and appropriate action to abolish this practice and do all it can to identify, assist and compensate victims of sexual exploitation.

(14) The Committee regrets that the State party has not provided detailed information on steps taken to abolish the recruitment of children for military service and is concerned about the persistence of this practice, especially in rural areas. Child soldiers are said to be used as forced labour, and cases of ill-treatment and death have been reported (articles 6, 8 and 24 of the Covenant).

The State party should abolish the recruitment of children for military service, investigate cases of ill-treatment and death of conscripts and compensate the victims.

(15) The Committee welcomes the State party's efforts to speed up proceedings on cases involving persons held in pretrial detention. It is dismayed, however, by the high proportion of inmates in pretrial detention, and the difficulties persons in pretrial detention face in gaining proper access to public defence (articles 9 and 14 of the Covenant).

The State party should correct the above practices forthwith. It should ensure that the Public Defence Office is appropriately staffed and funded.

(16) The Committee is concerned about prison conditions in the State party, i.e. overcrowding, unsatisfactory living conditions and the failure to separate accused from convicted persons, juveniles from adults and women from men (articles 7 and 10 of the Covenant).

The State party should improve prison conditions, bringing them into line with the provisions of article 10 of the Covenant.

(17) The Committee regrets the lack of objective criteria governing the appointment and removal of judges, including Supreme Court justices, which may undermine the independence of the judiciary (article 14 of the Covenant).

The State party should take effective action to safeguard the independence of the judiciary.

(18) The Committee welcomes the recognition in Paraguay's Constitution of conscientious objection to military service and the provisional measures passed by the Chamber of Deputies to guarantee respect for conscientious objection given the lack of specific regulations governing this right. However, it regrets that access to information on conscientious objection appears to be unavailable in rural areas (article 18 of the Covenant).

The State party should pass specific regulations on conscientious objection so as to ensure that this right can be effectively exercised, and guarantee that information about its exercise is properly disseminated to the entire population.

(19) While commending the improvement of the situation concerning freedom of expression in the State party, the Committee is concerned at defamation suits against journalists which appear to be politically motivated (article 19 of the Covenant).

The State party should ensure that defamation cases do not hamper the full enjoyment of this right.

(20) The Committee observes with concern that Act No. 1066/1997 limits in practice the right to demonstrate by establishing unreasonable restrictions on time, place and numbers of demonstrators and requiring prior police authorization (article 21 of the Covenant).

The State party should amend its legislation to ensure untrammelled exercise of the right to peaceful demonstration.

(21) The Committee notes that, despite some legislative and institutional progress, child labour still persists and the number of street children remains high (articles 8 and 24 of the Covenant).

The State party should take steps to ensure respect for children's rights, including urgent steps to eradicate child labour.

(22) While welcoming the campaign launched by the State party to promote child registration, the Committee is concerned that there are still many unregistered children, especially in rural areas and within indigenous communities (articles 16, 24 and 27 of the Covenant).

The Committee recommends that State party step up child registration throughout the country and keep the Committee informed on this matter.

(23) While noting initiatives taken by the State party to restore ancestral land to indigenous communities, the Committee is concerned about the lack of significant progress in putting these initiatives into practice (article 27 of the Covenant).

The State party should speed up the effective restitution of ancestral indigenous lands.

(24) The Committee requests that the State party's second periodic report and these concluding observations be widely disseminated throughout the State party in all official languages.

(25) In accordance with article 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, relevant information on the development of the situation and the implementation of the Committee's recommendations in paragraphs 7, 12, 17 and 21.

(26) The Committee requests the State party to provide in its next report, which is due by 31 October 2008, information on the other recommendations made and on the Covenant as a whole.

78. **Brazil**

(1) The Committee considered the second periodic report of Brazil (CCPR/C/BRA/2004/2) at its 2326th and 2327th meetings (CCPR/C/SR.2326 and 2327), on 26 and 27 October 2005, and adopted the following concluding observations at its 2336th meeting (CCPR/C/SR.2336), on 2 November 2005.

Introduction

(2) The Committee welcomes the second periodic report submitted by Brazil while regretting that it was presented more than eight years after the examination of the initial report. It expresses its appreciation for the dialogue with the State party delegation. The Committee also welcomes the extensive responses to the list of issues in written form, which facilitated discussion between the delegation and Committee members. In addition, the Committee appreciates the delegation's oral responses given to questions raised and to concerns expressed during the consideration of the report.

Positive aspects

(3) The Committee welcomes the campaign for civil registration of births, needed, inter alia, to facilitate and ensure full access to social services.

(4) The Committee welcomes institutional measures to protect human rights in the State party, namely, the establishment of Police Ombudsmen's Offices and "Legal Desks" to provide legal advice and civil documentation to indigenous and rural communities, as well as the "Brazil Without Homophobia" programme, the "Afro-Attitude" programme to support black students in public universities and the "Plan Against Violence in the Countryside".

Principal subjects of concern and recommendations

(5) While noting the adoption of various programmes and plans to promote the appreciation of human rights, including dialogues and education, the Committee regrets the general absence of specific data to permit evaluation of the practical enjoyment of human rights, especially in regard to alleged violations in the states of the Federative Republic of Brazil (articles 1, 2, 3, 26 and 27) of the Covenant.

The State party should provide detailed information regarding the effectiveness of programmes, plans and other measures taken to protect and promote human rights, and is encouraged to strengthen mechanisms to monitor the performance of those measures at the local level. This should include statistical data on issues such as domestic violence against women, police lethality, and arbitrary prolonged confinement.

(6) The Committee is concerned about the slow pace of demarcation of indigenous lands, the forced evictions of indigenous populations from their land and the lack of legal remedies to reverse these evictions and compensate the victimized populations for the loss of their residence and subsistence (arts. 1 and 27).

The State party should accelerate the demarcation of indigenous lands and provide effective civil and criminal remedies for deliberate trespass on those lands.

(7) While acknowledging the federal structure of Brazil, the Committee is disturbed by the failure of the judiciary in some states of the Federation to act against human rights violations (art. 2).

The State party should create appropriate mechanisms to monitor the performance of the judiciary at the state level, in order to fulfil its international obligations under the Covenant. The State party should increase its efforts to sensitize the judiciary, especially at the state level, to the need to take seriously and deal effectively with allegations of human rights violations.

(8) While welcoming the existence of a Secretariat for Human Rights under the Presidency of the Republic, the Committee regrets the proposed significant reduction in the budget of the Secretariat (art. 2).

The State party should strengthen the Secretariat for Human Rights and provide it with adequate resources so as to allow it to function effectively.

(9) The Committee is disturbed by the apparent absence of effective civilian supervision of the activities of the military police (art. 2).

The State party should ensure that the military police are subject to the institutions and procedures of judicial and civilian accountability. The ordinary courts should have criminal jurisdiction over all serious human rights violations committed by the military police, including excessive use of force and manslaughter, as well as intentional murder.

(10) The Committee is concerned about the low level of participation of women, Afro-Brazilians and indigenous peoples in public affairs and their disproportionately limited presence in the political and judicial life of the State party (arts. 2, 3, 25 and 26).

The State party should take appropriate measures to ensure the effective participation of women, Afro-Brazilians, and indigenous peoples in political, judicial, public and other sectors of the State party.

(11) The Committee is concerned about the lack of information regarding the incidence of domestic violence and regrets the absence of specific legal provisions to prevent, combat and eliminate such violence. It is also concerned about the illegal practice of some employers in requiring sterilization certificates as a condition of women's employment (art. 3).

The State party should adopt, and implement, appropriate criminal and civil laws and policies to prevent and combat domestic violence, and assist the victims. In order to raise public awareness, it should initiate the necessary media campaigns and increase educational programmes. It should also adopt adequate measures, including sanctions, against the impermissible practice of requesting sterilization certificates for employment purposes.

(12) The Committee is concerned about the widespread use of excessive force by law enforcement officials, the use of torture to extract confessions from suspects, the ill-treatment of detainees in police custody, and extrajudicial execution of suspects. It is concerned that such gross human rights violations committed by law enforcement officials are not investigated properly and that compensation to victims has not been provided, thus creating a climate of impunity (arts. 6 and 7).

The State party should:

(a) Take stringent measures to eradicate extrajudicial killing, torture, and other forms of ill-treatment and abuse committed by law enforcement officials;

(b) Ensure prompt and impartial investigations into all allegations of human rights violations committed by law enforcement officials. Such investigations should, in particular, not be undertaken by or under the authority of the police, but by an independent body, and the accused should be subject to suspension or re-assignment during the process of investigation;

(c) Prosecute perpetrators and ensure that they are punished in a manner proportionate to the seriousness of the crimes committed, and grant effective remedies, including redress, to the victims; and

(d) Give utmost consideration to the recommendations of the United Nations Special Rapporteurs on the question of torture, on extrajudicial, summary or arbitrary executions, and on the independence of judges and lawyers contained in the reports of their visits to the country.

(13) While acknowledging the recent amendment to the Brazilian Constitution allowing the Prosecutor-General of the Republic to seek a transfer of certain human rights violations from state to federal jurisdiction, the Committee is concerned about the ineffectiveness to date of such a mechanism. It is also concerned about the widespread reports and documentation of threats against and murders of rural leaders, human rights defenders, witnesses, police ombudsmen and even judges (arts. 7 and 14).

The State party should ensure that the constitutional safeguard of federalization of human rights crimes becomes an efficient and practical mechanism in order to ensure prompt, thorough, independent and impartial investigations and prosecution of serious human rights violations.

(14) While noting the establishment of the National Commission for the Eradication of Slave Labour, the Committee is still concerned about the persistence of practices of slave labour and forced labour in the State party and the absence of effective criminal sanctions against these practices (art. 8).

The State party should reinforce its measures to combat practices of slave labour and forced labour. It should create a clear criminal penalty for such practices, prosecute and punish perpetrators, and ensure that protection and redress are granted to victims.

(15) The Committee is concerned about persistent trafficking in women and children, the alleged involvement of some officials in acts of trafficking, and the lack of effective witness and victim protection mechanisms (arts. 8, 24 and 26).

The State party should reinforce international cooperation mechanisms to fight trafficking in persons, prosecute perpetrators, provide protection and redress to all victims, protect witnesses and root out trafficking-related official corruption.

(16) The Committee is concerned about gross overcrowding and inhuman conditions of detention in jails at the state and federal levels, the use of prolonged remand in police custody and the arbitrary confinement of prisoners after their sentences have been completed (arts. 9 and 10).

The State party should urgently take steps to improve the conditions for all persons deprived of their liberty before trial and after conviction. It should ensure that detention in police custody before access to counsel is limited to one or two days following arrest, and end the practice of remand detention in police stations. The State party should develop a system of bail pending trial, ensure that defendants are brought to trial as speedily as possible, and implement alternatives to imprisonment. In addition, the State party should take urgent measures to end the widespread practice of detaining prisoners in prolonged confinement even after their sentences have expired.

(17) While taking note of recent efforts undertaken by the State party to reform the judiciary and increase its efficiency, the Committee remains concerned about interference with the independence of the judiciary and the problem of judicial corruption. It is also concerned about a lack of access to counsel and legal aid, and undue delay of trials (art. 14).

The State party should guarantee the independence of the judiciary; take measures to eradicate all forms of interference with judicial independence; ensure prompt, thorough, independent and impartial investigations into all allegations of interference; and prosecute and punish perpetrators. It should establish mechanisms to improve the capacity and efficiency of the judiciary, so as to allow access to justice to all without discrimination.

(18) While noting that the State party has created a right to compensation for victims of human rights violations by Brazil's military dictatorship, there has been no official inquiry into or direct accountability for the grave human rights violations of the dictatorship (arts. 2 and 14).

To combat impunity, the State party should consider other methods of accountability for human rights crimes committed under the military dictatorship, including disqualifying of gross human rights violators from relevant public office and establishing justice and truth inquiry processes. The State party should make public all documents relevant to human rights abuses, including the documents currently withheld pursuant to presidential decree 4553.

(19) The Committee is concerned about the situation of street children and the absence of information and measures needed to remedy their plight (arts. 23 and 24).

The State party should adopt effective measures to combat the phenomenon of street children and the abuse and exploitation of children in general, and establish public awareness-raising campaigns regarding children's rights.

(20) The Committee is concerned about the lack of information on the Roma community and allegations that this community suffers discrimination, in particular with regard to equal access to health services, social assistance, education and employment (arts. 2, 26 and 27).

The State party should provide information on the situation of the Roma community and the measures taken to ensure their practical enjoyment of rights under the Covenant.

(21) The Committee requests that the State party's second periodic report, the list of issues and the present concluding observations be widely disseminated throughout Brazil in the country's main languages, and that the next periodic report be brought to the attention of non-governmental organizations operating in the country before being submitted to the Committee.

(22) In accordance with article 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, the relevant information on the assessment of the situation and the implementation of the Committee's recommendations in paragraphs 6, 12, 16 and 18 above.

(23) The Committee requests the State party to provide in its next report, which it is scheduled to submit by 31 October 2009, information on the other recommendations made and on the Covenant as a whole.

79. Italy

(1) The Human Rights Committee considered the fifth periodic report of Italy (CCPR/C/ITA/2004/5) at its 2317th and 2318th meetings (CCPR/C/SR.2317-2318), on 20 and 21 October 2005, and adopted the following concluding observations at its 2335th meeting (CCPR/C/SR.2335), on 2 November 2005.

Introduction

(2) The Committee welcomes the submission of Italy's fifth periodic report, which was elaborated in conformity with the reporting guidelines, as well as the written responses to the Committee's list of issues. It further appreciates the attendance of a delegation composed of numerous experts in various fields relevant to the Covenant and acknowledges their efforts to answer the Committee's oral questions.

Positive aspects

(3) The Committee welcomes the State party's position that the guarantees of the Covenant apply to the acts of Italian troops or police officers who are stationed abroad, whether in a context of peace or armed conflict.

(4) The Committee welcomes the amendments to article 51 of the Constitution, allowing for the adoption of special measures to ensure equal rights for men and women.

(5) The Committee notes with appreciation that, in 2005, the State party amended its legislation to ensure that, in cases of judgements by default, the convicted person has the possibility of reopening the matter to challenge the decision, except when he/she was duly and promptly informed about the proceedings.

Principal subjects of concern and recommendations

(6) The Committee, while welcoming the delegation's announcement that the State party is now in a position to withdraw some of its reservations to the Covenant, regrets that the withdrawal of reservations to articles 14, paragraph 3, 15, paragraph 1, and 19, paragraph 3, is not part of this process.

> **The State party is encouraged to pursue the in-depth review process it started in May 2005 to assess the status of its reservations to the Covenant, with a view to withdrawing them all. The Committee would appreciate receiving more detailed information on the reasons why the withdrawal of the State party's reservations to articles 14, paragraph 3, 15, paragraph 1, and 19, paragraph 3, is thus far not envisaged.**

(7) The Committee notes that the State party has not yet established a national human rights institution. It notes, however, the State party's statement that a draft bill will be introduced in Parliament over the following months, with a view to establishing such an institution that would comply with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), annexed to General Assembly resolution 48/134 (art. 2).

> **The State party should establish an independent national human rights institution, in accordance with the Paris Principles. Consultations with civil society should be organized to this end.**

(8) The Committee regrets that it has not received precise information from the State party in relation to the results obtained by the equality counsellors mandated to request that plans be put in place to eliminate gender discrimination and to refer cases of gender discrimination to the courts (arts. 3 and 26).

The State party should increase its efforts to eliminate gender-based discrimination, and provide the Committee with the above-mentioned information, including statistical data on complaints, prosecutions and sentences in matters of gender-based discrimination.

(9) While appreciating the adoption of Act No. 149/2001, allowing in particular the judicial authorities to order expulsion of the perpetrator of domestic violence from the family home, the Committee regrets that the State party did not provide information on the practical implementation of such legislation or statistical data on complaints, prosecutions and sentences in matters of domestic violence (arts. 6 and 7).

The State party should increase its efforts towards the elimination of domestic violence, and provide the Committee with the above-mentioned information. The State party should ensure that prompt action on the part of the authorities is taken in cases of domestic violence.

(10) The Committee, while welcoming the fact that criminal proceedings were brought against officers of the State police in relation, in particular, to demonstrations in Naples and Genoa in 2001, is concerned about the reported persistence of ill-treatment by police forces in Italy (art. 7).

The State party should increase its efforts to ensure that prompt and impartial investigations are carried out wherever there is reasonable ground to believe that an act of ill-treatment has been committed by one of its agents. The State party should also keep the Committee informed about the trials of State officials in relation to the events in Naples and Genoa in 2001.

(11) The Committee is concerned about reports of abuses committed by members of law enforcement agencies against vulnerable groups, in particular Roma, foreigners and Italians of foreign origin. The Committee notes with particular concern information that Roma camps are regularly subjected to abusive police raids (arts. 2, 7, 17 and 26).

The State party should take immediate action in order to put an end to these abuses, and to monitor, investigate and, when appropriate, prosecute police who ill-treat vulnerable groups.

(12) The Committee, while noting the initiatives adopted by the State party to combat racial discrimination and intolerance, remains concerned about reported instances of hate speech, including statements attributed to certain politicians, targeting foreign nationals, Arabs and Muslims, as well as the Roma (art. 20).

The State party should recall regularly and publicly that hate speech is prohibited under the law, and take prompt action to bring those responsible to justice. More detailed information on this issue, including statistical data on complaints, prosecutions and sentences, as well as examples, should be provided to the Committee.

(13) The Committee reiterates its concern, despite contradictory information provided by the delegation that, in exceptional circumstances, albeit apparently applied mainly to persons suspected of involvement in organized crime, an accused person may be held in detention for five days under a motivated decree adopted by an investigating judge before being allowed to contact an attorney (arts. 9 and 14).

The Committee recommends that the maximum period during which a person may be held in custody following arrest on a criminal charge be reduced, even in exceptional circumstances, to less than the present five days and that the arrested person be entitled to access to independent counsel as soon as he or she is arrested.

(14) The Committee reiterates its concern that the maximum period for preventive detention is set by reference to the penalty for the offence of which the person stands accused, and can last up to six years. In the view of the Committee, this may constitute an infringement of the presumption of innocence and of the right to a fair trial within a reasonable time or to release (arts. 9 and 14).

The State party should not maintain the linkage between the offence with which a person has been charged and the length of detention from the time of arrest up to final sentence. It should restrict the grounds for preventive detention to those cases in which such detention is essential to protect legitimate interests, such as the appearance of the accused at the trial.

(15) The Committee, while taking note of the denials by the State party, is concerned by numerous allegations that foreigners held in the temporary stay and assistance centre for foreigners (CPTA) of Lampedusa are not properly informed of their rights, do not have access to a lawyer and face collective expulsion. Notwithstanding the difficulties encountered by the Italian authorities due to the high numbers of migrants arriving in Lampedusa, the Committee is concerned that some asylum-seekers may have been denied the right to apply for asylum. It is further concerned about information that detention conditions in this centre are unsatisfactory in terms of overcrowding, hygiene, food and medical care, that some migrants have undergone ill-treatment, and about the fact that regular independent inspections do not seem to be carried out in CPTAs (arts. 7, 10 and 13).

The State party should keep the Committee closely informed about the ongoing administrative and judicial inquiries into these matters, and take all necessary action to ensure the respect of its obligations under articles 7, 10 and 13 of the Covenant. The Committee recalls the absolute nature of the right of each person not to be expelled to a country where he/she may face torture or ill-treatment, and the obligation of the State party, consequently and in all circumstances, to ensure

that the situation of each migrant is processed individually. The State party should provide the Committee with detailed information on the readmission agreements concluded with other countries, in particular with the Libyan Arab Jamahiriya, and the guarantees, if any, that such agreements contain regarding the rights of deported persons.

(16) While welcoming the development of alternative measures to detention, as well as the plan to build new correction centres, the Committee remains concerned about overcrowding in Italian prisons (art. 10).

The State party should increase its efforts to reduce significantly overcrowding in prisons, and consider this matter as a high priority. Detailed statistical data showing progress over recent years, including on concrete implementation of alternative measures to detention, should be submitted to the Committee.

(17) The Committee notes that magistrates in Italy are concerned that their independence is being threatened. While acknowledging the decision of the President of the Republic to refer back to Parliament a Bill relating to the reform of the judiciary, which had been much criticized by civil society, the Committee regrets that the State party provided insufficient information on the extent to which comments and recommendations made by domestic stakeholders as well as by the Special Rapporteur of the Commission on Human Rights on the independence of judges and lawyers have been taken into consideration in the adoption of the new bill in 2005 (art. 14).

The State party should ensure that the judiciary remain independent of the executive power, and ensure that the ongoing reform not jeopardize this independence. The State party should provide the Committee with more detailed information on this issue.

(18) The Committee regrets that insufficient information was provided on the extent to which the right to privacy and family life is taken into consideration by the judiciary when the criminal conviction of an alien is accompanied by an expulsion order from Italian territory (art. 17).

The State party should ensure that any restrictions on the right to privacy and family life are in accordance with the Covenant. It should provide more detailed information on restrictions to expulsion existing under Italian law, as well as on the way they are implemented by law enforcement officials as well as by the judiciary.

(19) The Committee, bearing in mind the nature of the rights guaranteed under article 19 of the Covenant and the limited conditions and grounds under which these rights may lawfully be restricted, and noting that a draft bill under consideration by the Senate envisages that imprisonment will no longer be authorized in case of defamation, is concerned that defamation currently remains punishable by imprisonment.

The State party should ensure that defamation is no longer punishable by imprisonment.

(20) The Committee, while noting Law No. 112 of 3 May 2004 on television broadcasting and Law No. 215 of 20 July 2004 on conflict of interest, expresses concern about information that these steps may remain insufficient to address the issues of political influence over public television channels, of conflict of interests and high level of concentration of the audio-visual market. This situation is conducive to undermining freedom of expression, in a manner incompatible with article 19 of the Covenant.

The State party should provide detailed information on the concrete results achieved through the implementation of the above-mentioned laws, and pay particular attention to the recommendations of the Special Rapporteur of the Commission of Human Rights on freedom of opinion and expression, following his mission to Italy in October 2004.

(21) The Committee is concerned by the State party's policy to consider Roma as "nomads" as well as its camp-based policy towards them. It expresses concern about widespread reports that the Roma population is living in poor, unhygienic housing conditions on the margins of Italian society (arts. 12 and 26).

The State party, in consultation with the Roma, should reconsider its policy towards this community, put an end to their residential segregation, and develop programmes to ensure their full participation in mainstream society at all levels.

(22) The Committee notes with concern that the Roma are not protected as a minority in Italy, on the basis that they do not have a connection with a specific territory. The Committee, while acknowledging the recognition by the delegation of the need to adopt a national law relating to the Roma, recalls that the absence of connection with a specific territory does not bar a community for qualifying as a minority under article 27 of the Covenant.

The State party, bearing in mind the Committee's general comment No. 23 (1994) on article 27, should re-examine the situation of the Roma people in Italy, and, in consultation with them, adopt a national law and elaborate an action plan with a view to ensuring that their rights under article 27 are fully implemented.

(23) The Committee sets 31 October 2009 as the date for the submission of Italy's sixth periodic report. It requests that the State party's fifth periodic report and the present concluding observations be published and widely disseminated in Italy, to the general public as well as to the judicial, legislative and administrative authorities, and that the sixth periodic report be circulated for the attention of the non-governmental organizations operating in the country.

(24) In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should submit within one year information on the follow-up given to the Committee's recommendations in paragraphs 10, 11, 15, 17 and 20 above. The Committee requests the State party to include in its next periodic report information on its remaining recommendations and on the implementation of the Covenant as a whole. The State party is encouraged to increase its efforts to provide the Committee with more detailed information on how the law and institutions work in practice and on concrete results achieved.

80. **Democratic Republic of the Congo**

(1) The Human Rights Committee considered the third periodic report of the Democratic Republic of the Congo (CCPR/C/COD/2005/3) at its 2344th and 2345th meetings on 15 and 16 March 2006 (see CCPR/C/SR.2344 and 2345). It adopted the following concluding observations at its 2358th meeting (CCPR/C/SR.2358), on 24 March 2006.

Introduction

(2) The Committee welcomes the submission of the third periodic report of the Democratic Republic of the Congo and the opportunity thus offered to resume its dialogue with the State party after more than 15 years. The Committee feels that the failure to submit a report for such a long period of time, even though the situation has been difficult, represents a breach by the Democratic Republic of the Congo of its obligations under article 40 of the Covenant and an obstacle to a more thoroughgoing consideration of the steps to be taken to ensure the satisfactory implementation of the provisions of the Covenant. The Committee invites the State party to submit its reports from now on in a timely manner, as indicated by the Committee. It welcomes the presence of a delegation that desires to continue the dialogue with it, and it encourages the State party to redouble its efforts to maintain this dialogue.

(3) The Committee welcomes the information provided on the political and constitutional evolution of the State party and on the constitutional framework and legislation produced since 2002. It regrets, however, the formal presentation of the Democratic Republic of the Congo's third periodic report, which does not conform to the Committee's guidelines in that it contains only partial information on the implementation of the Covenant in daily life and on the factors and difficulties encountered, focusing rather on the listing of relevant existing legislation or pending draft laws. The Committee also regrets that the delegation was unable to respond in detail to some of the questions and concerns expressed in the list of issues and during the consideration of the report.

(4) The Committee has taken note of the State party's mention of the difficulties it has faced in relation to communications and those resulting from the fact that the eastern regions of the country - against which the Security Council, in its resolution 1493 (2003), has imposed an arms embargo - are not under the effective control of the Government. It reminds the Government, nonetheless, that the provisions of the Covenant and all the obligations thereunder apply to the territory in its entirety.

Positive aspects

(5) The Committee is pleased at the democratic transition undertaken by the Democratic Republic of the Congo since the signing of the Pretoria Agreement of 17 December 2002, the entry into force of the Constitution of 18 February 2006 and the prospects for the first general elections to be held in the spring of 2006. It notes and appreciates the State party's efforts to ensure greater respect for human rights and establish the rule of law by inaugurating a legislative reform programme.

(6) The Committee welcomes the State party's cooperation with the International Criminal Court in the context of the referral submitted to the Court by the Government of the Democratic Republic of the Congo on 19 April 2004. The Committee recommends that the State party should endorse the draft law on the implementation of the Rome Statute and ratify and enforce the Agreement on the Privileges and Immunities of the International Criminal Court.

(7) The Committee notes with satisfaction the establishment, by Act No. 04/019 of 30 July 2004, of the National Human Rights Observatory, a national institution - independent of the Republic's other institutions - for the protection and promotion of human rights. It is hoped that the Observatory will receive adequate funding.

Principal subjects of concern and recommendations

(8) The Committee notes that, under article 215 of the Constitution, the authority of treaties supersedes that of laws and that, according to the information provided by the delegation, the Covenant may be and sometimes is directly invoked before national courts. It regrets, however, that the delegation did not draw its attention to specific cases in which the direct applicability of the Covenant was invoked, or in which the national courts were asked to judge the compatibility of national laws with the Covenant. It also regrets the absence of precise information on the compatibility between customary law, which continues to be practised in some parts of the country, and the provisions of the Covenant.

> **The State party should maintain and improve the training programme for judges and lawyers, including those who are already employed, about the contents of the Covenant and other international human rights instruments ratified by the Democratic Republic of the Congo. The Committee expects that more complete information on the actual remedies available to individuals in cases of human rights violations under the Covenant will be provided in the next periodic report, together with concrete examples of cases where the courts have invoked the provisions of the Covenant and clarifications concerning the functioning of the customary courts.**

(9) While welcoming the delegation's assertion that the judges who wrote communication No. 933/2000 (*Busyo et al.*) can once again practise their profession freely and have been compensated for being arbitrarily suspended, the Committee remains concerned that the State party failed to follow up on its recommendations contained in many Views adopted under the Optional Protocol to the Covenant (such as the Views in cases Nos. 366/1989 (*Kanana*), 542/1993 (*N'Goya*), 641/1995 (*Gedumbe*) and 962/2001 (*Mulezi*)).

> **The State party should follow up on the Committee's recommendations in the above-mentioned cases and submit a report thereon to the Committee as soon as possible. The State party should also accept a mission by the Committee's special rapporteur to follow up the Views and discuss possible ways and means of implementing the Committee's recommendations, with a view to ensuring more effective cooperation with the Committee.**

(10) Despite the information from the delegation on several criminal proceedings against human rights violators, the Committee notes with concern the impunity with which many serious human rights violations have been and continue to be committed in the territory of the Democratic Republic of the Congo, even though the identity of the perpetrators of these violations is often known (article 2 of the Covenant).

The State party should take all appropriate steps to ensure that all human rights violations brought to its attention are investigated, and that those responsible for such violations are prosecuted and punished.

(11) The Committee notes with concern the persistent practice of discrimination against women with regard to education, equal rights of both spouses within marriage and the management of family assets. The Committee reminds the Democratic Republic of the Congo, in particular, of its general comment No. 28 (2000), on equality of rights between men and women. The Committee expresses its concern at the State party's admission (paragraphs 51, 54 and 55 of the report) that women do not enjoy equal rights with men in the areas of political participation and access to education and employment (articles 3, 25 and 26 of the Covenant) and at the legislation on forced marriage, which is incompatible with the Covenant (articles 3, 25 and 26 of the Covenant).

(a) The State party should speed up the process of adapting the Family Code to international legal instruments, especially articles 3, 23 and 26 of the Covenant, in particular with regard to the rights of both spouses within marriage (paragraph 48 of the report) and the quasi-impunity of forced marriage.

(b) The State party should increase its efforts to promote women's participation in political affairs and their access to education and employment. In its next report, the State party should inform the Committee of any relevant actions taken and their outcomes.

(12) The Committee is concerned at the reports of domestic violence in the Democratic Republic of the Congo and of failures by the authorities to ensure the prosecution of the perpetrators and care of the victims. It reminds the State party that the distinctive nature of such violence calls for the enactment of special legislation (articles 3 and 7 of the Covenant).

The State party should adopt the draft law prohibiting and punishing domestic and sexual violence. Adequate protection of victims should also be provided for. The State party should engage in a policy of prosecution and punishment of such violence, in particular by providing the police with clear guidelines on the matter, together with awareness-raising and other training.

(13) In view of article 15 of the Constitution, which stipulates that the authorities should ensure the elimination of sexual violence, the Committee is concerned at the number of acts of aggravated assault, including sexual abuse and many cases of rape, committed against women and children in the war zones. It also notes the reports alleging that members of the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) committed sexual abuse (articles 3, 6 and 7 of the Covenant).

The State party should take all necessary steps to strengthen its capacity to protect civilians in the zones of armed conflict, especially women and children. Relevant guidelines should be made available to all members of the armed forces and human rights training should be made compulsory for all members of the State party's armed forces. The State party should prevail upon the States of origin of MONUC troops suspected of having committed acts of sexual abuse to open inquiries into the matter and take the appropriate measures.

(14) The Committee remains concerned by the very high maternal and infant mortality rates in the Democratic Republic of the Congo (paragraphs 71 and 72 of the report), owing in particular to the difficulty of access to health and family planning services and the low level of education (article 6 of the Covenant).

The State party should strengthen, in particular, its efforts to increase access to health services. The State party should ensure that health-care personnel receive better training.

(15) The Committee remains concerned at the large number of forced disappearances or summary and/or arbitrary executions committed throughout the State party's territory by armed groups. These violent acts in turn result in mass migrations of the affected populations, thereby contributing to an ever-increasing number of displaced persons, especially in the provinces of Ituri, North and South Kivu and Katanga (articles 6, 7 and 9 of the Covenant).

The State party should open inquiries into any forced disappearance or arbitrary execution reported to it, appropriately prosecute and punish the perpetrators of such acts and grant effective reparations including appropriate compensation, to victims or their families (articles 6, 7 and 9). It should also strengthen measures to curb the displacement of civilian populations.

(16) The Committee regrets that the Penal Code of the Democratic Republic of the Congo still contains no definition of torture, although a draft law to make torture a criminal offence is currently before Parliament. The Committee notes with concern the reliable reports of many acts of torture allegedly committed by, in particular, officers of the judicial police, members of the security services and armed forces, and rebel groups operating in the national territory (article 7 of the Covenant).

The State party should define, as soon as possible, the concept of "torture" and make torture a criminal offence. An inquiry should be opened in each case of alleged torture, and the perpetrators of such acts should be prosecuted and punished appropriately. Effective reparations, including adequate compensation, should be granted to victims.

(17) While noting that the Congolese Charter of Human Rights, adopted in June 2001, provides for abolition of the death penalty, the Committee is concerned at the many death sentences handed down, especially by the former Military Court, against an indeterminate number of persons, and the suspension in 2002 of the moratorium on executions. It also notes that the delegation was unable to provide sufficient details on the nature of offences punishable

by death, which would have allowed the Committee to determine whether these offences were included among the most serious crimes within the meaning of article 6, paragraph 2, of the Covenant.

The State party should ensure that the death sentence is imposed only for the most serious crimes. The Committee would like to receive more detailed information on the death sentences imposed by the former Military Court and would like to know exactly how many executions took place between 1997 and 2001. The Committee encourages the State party to abolish capital punishment and accede to the Second Optional Protocol to the Covenant.

(18) While noting the delegation's comments on the subject, the Committee remains concerned at the trafficking of children, especially for the purposes of sexual or economic exploitation, and the forced recruitment of many children into armed militias and, although to a lesser extent, into the regular army (article 8 of the Covenant).

The State party should pursue its efforts to eradicate these phenomena. Information on steps taken by the authorities to prosecute child traffickers and eliminate the forced recruitment of minors into the armed forces and rehabilitate and protect the victims, among other things by reinforcing the activities of the National Commission for the Demobilization and Reintegration of Child Soldiers (CONADER), should be provided in the next periodic report.

(19) The Committee notes that although pretrial detention is the exception, in accordance with article 17 of the Constitution and article 28 of the Code of Criminal Procedure, it seems rather to be the rule. While an arrest must be authorized by a warrant issued by the public prosecutor's office, such a warrant is often not produced, and although pretrial detention is not supposed to exceed 48 hours, such detention is often prolonged considerably beyond this limit. The Committee is also concerned that the civil and military security forces place detainees in unauthorized and/or secret holding cells or centres, often without allowing them to contact a lawyer or a member of their family (article 9 of the Covenant).

The State party should ensure that its practice with regard to detention and oversight of the legality of detention conforms to all the provisions of article 9 of the Covenant. All unauthorized holding cells or centres should be closed immediately. Precise details on steps taken to ensure respect in practice for the rights of persons held in police custody, and on methods of supervising the conditions of such detention, should be provided in the next periodic report.

(20) The Committee notes that the report (para. 112) and the delegation frankly acknowledge the poor conditions of detention in the country's prisons, including the unacceptable state of sanitation and nutrition and the widespread overcrowding in these institutions (article 10, paragraph 1, of the Covenant).

The State party should ensure that conditions of detention in the country's prisons are compatible with the United Nations Standard Minimum Rules for the Treatment of Prisoners, and that prisoners are adequately fed. The country's prisons should also be modernized.

(21) The Committee is concerned at the continued existence of military courts and at the absence of guarantees of a fair trial in proceedings before these courts. It is also concerned at the clearly insufficient number of active judges in the Democratic Republic of the Congo, and at the low pay they receive, which frequently results in their corruption, according to information provided to the Committee. The shortage of judges contributes to the increase in crime and to the failure to prosecute criminal offences (article 14 of the Covenant).

The State party should abolish military courts for ordinary offences. It should fight the corruption of judges, recruit and train enough judges to ensure the proper administration of justice throughout the territory of the Republic, fight crime and impunity, and allocate sufficient budgetary resources for the administration of justice.

(22) The Committee notes with concern that many journalists have been prosecuted for defamation or have been subjected to pressure, intimidation or acts of aggression, including imprisonment or harsh treatment, on the part of government authorities. The Committee feels that these measures, in most cases, are aimed at impeding journalists' legitimate performance of their work (article 19 of the Covenant).

The State party should guarantee freedom of speech and of the press and other media, and ensure that any restriction on press and media activities is strictly compatible with the provisions of article 19, paragraph 3, of the Covenant.

(23) The Committee is concerned that many human rights defenders cannot freely carry out their work because they are subjected to harassment or intimidation, prohibition of their demonstrations or even arrest or arbitrary detention by the security forces (articles 9, 21 and 22 of the Covenant).

The State party should respect and protect the activities of human rights defenders and ensure that any restriction on their activities is compatible with the provisions of articles 21 and 22 of the Covenant.

(24) The Committee is concerned at the fate of thousands of street children whose parents have died as a result of either the armed conflict or AIDS. These children are often victims of violent treatment by the police or are sexually exploited (article 24 of the Covenant).

The State party should further develop and strengthen the programme for the care of orphans, especially by public organizations, referred to in paragraph 273 of the report. It should also appropriately punish any person guilty of abusing such orphans.

(25) The Committee is concerned at the very limited effectiveness of civil status registries and at their complete absence in some localities (articles 16, 24, paragraph 2, and 25 (b) of the Covenant).

The State party should continue taking appropriate steps to improve or establish, as the case may be, an effective system of civil status registries, including for adults and older children not registered at birth.

(26) While noting the State party's comments on the Government's policy of preserving the cultural identity of the various ethnic groups and minorities (paragraph 294 of the report), the Committee is concerned at the marginalization, discrimination and at times persecution of some of the country's minorities, including pygmies (article 27 of the Covenant).

The State party is urged to provide detailed information in its next report on measures envisaged or taken to promote the integration of minorities and the protection of their rights and to guarantee respect for their cultures and dignity.

(27) The Committee has set 1 April 2009 as the date on which the next periodic report of the Democratic Republic of the Congo will be due. It requests that the text of the present report and these concluding observations be made public and broadly disseminated throughout the Democratic Republic of the Congo, and that the next periodic report be made available to civil society and to non-governmental organizations operating in the State party.

(28) In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should submit information within one year on the follow-up given to the Committee's recommendations contained in paragraphs 9, 10, 15 and 24. The Committee requests the State party to provide information in its next report on the other recommendations and on the applicability of the Covenant as a whole.

81. **Norway**

(1) The Committee considered the fifth periodic report of Norway (CCPR/C/NOR/2004/5) at its 2341st and 2342nd meetings (CCPR/C/SR.2342 and 2343), held on 14 March 2006, and adopted the following concluding observations at its 2358th meeting (CCPR/C/SR.2358), held on 24 March 2006.

Introduction

(2) The Committee welcomes the timely submission of the report by the State party which was drafted in accordance with its guidelines. The Committee notes with appreciation that the report contains useful and detailed information on developments since the consideration of the fourth periodic report in light of certain previous concluding observations. In addition, the Committee appreciates the delegation's precise oral responses given to the questions raised and concerns expressed during the consideration of the report.

Positive aspects

(3) The Committee commends the State party for its generally positive record in the implementation of the provisions of the Covenant. It welcomes the extensive legislative activity and other measures that have been taken to improve the protection and promotion of human rights recognized under the Covenant since the examination of the fourth periodic report, including:

(a) The amendments to the Criminal Procedure Act to reduce the overall time spent on the investigation and adjudication of criminal cases;

(b) The amendments to the Criminal and the Civil Procedure Act regarding the reopening of cases as a result of a decision by an international body, which allows, under certain circumstances, reconsideration of cases following a decision of the Human Rights Committee;

(c) The improvement of Gender Equality legislation through the amendment, on 14 June 2002 and 19 December 2003 concerning gender representation, of the Gender Equality Act of 1978 and also the entry into force, on 1 January 2006, of legislation on gender representation on boards of public limited companies, the Action Plan to Combat Violence against Women (2000-2002) and the Action Plan to Combat Domestic Violence (2004-2007) as well as the amendment to section 219 of the Penal Code;

(d) The adoption of the Anti-Discrimination Act on 3 June 2005, and the establishment of the Equality and Anti-Discrimination Ombud and Anti-Discrimination Tribunal on 10 June 2005, which entered into force on 1 January 2006.

(4) The Committee commends the prompt response and the measures taken by the State party to remedy the infringements on religious freedom identified in the Committee's Views in communication No. 1155/2003, including the adoption of amendments to the Education Act.

(5) The Committee welcomes the Agreement entered into by the State party and the Sameting on 11 May 2005 setting out procedures for consultation between central government authorities and the Sameting, as well as the adoption of the Finnmark Act, which is in furtherance of articles 1 and 27 of the Covenant.

(6) The Committee takes note of measures taken by the State party to give effect to the commitment under the Covenant to respect the rights recognized in the Covenant for all individuals within its power or effective control in situations where its troops operate abroad, particularly in the context of peacekeeping and peace-restoration missions.

(7) The Committee appreciates the involvement of Parliament and non-governmental organizations in the preparation of the report and the planned follow-up to the concluding observations.

Principal subjects of concern and recommendations

(8) The Committee regrets that Norway maintains its reservations to article 10, paragraphs 2 (b) and 3, article 14 and to article 20, paragraph 1, of the Covenant.

The State party should continue to review the possibility of withdrawing its reservations.

(9) The Committee is concerned about the potentially overbroad reach of the definition of terrorism in article 147 (b) of the Penal Code.

The State party should ensure that its legislation adopted in the context of the fight against terrorism (pursuant to Security Council resolution 1373 (2001)) is limited to crimes that deserve to attract the grave consequences associated with terrorism.

(10) The Committee notes with concern the persistence of domestic violence despite legislation adopted by the State party. It also notes with regret the lack of statistics with regard to this issue (arts. 3, 7).

The State party should reinforce its policy against domestic violence and, in this regard, prepare adequate statistics and take more effective measures to prevent domestic violence and assist the victims.

(11) The Committee notes with concern that asylum requests may be rejected on the basis of the assumption that the persons concerned can find protection in a different part of their country of origin even in cases, where information, including recommendations by UNHCR, is available indicating that such alternatives might not be available in the specific case or country of origin (arts. 6, 7).

The State party should apply the so-called internal relocation alternative only in cases where such alternative provides full protection for the human rights of the individual.

(12) While the Committee takes note of the positive measures adopted, it remains concerned that trafficking in human beings, especially women, is escalating within the territory of the State party. The Committee is also concerned about incidents of female genital mutilation (arts. 7, 8).

The State party should further strengthen its measures to prevent and eradicate these practices, as well as to effectively protect victims and witnesses, inter alia, by granting residence permits where appropriate on the basis of humanitarian considerations.

(13) The Committee is concerned about the provisions of solitary confinement and in particular the possibility of unlimited prolongation of such pretrial confinement, which might be combined with far-reaching restrictions on the possibility to receive visits and other contacts with the outside world (arts. 7, 9, 10).

The State party should review its legislation and practice to ensure their compatibility with the provisions of the Covenant.

(14) While welcoming the amendments to the Criminal Procedure Act adopted in 2002, the Committee notes with concern the continued use of pretrial detention for excessive periods of time and the lack of implementation of the aforementioned amendments (art. 9).

The State party should implement the relevant provisions without delay.

(15) The Committee takes note of proposals to repeal article 2, paragraph 2, second sentence, of the Constitution, which provides that individuals professing the Evangelical-Lutheran religion are bound to bring up their children in the same faith and reiterates its concern that this provision is incompatible with the Covenant (art. 18).

The State party should repeal this section of the Constitution without delay.

(16) The Committee is concerned about the practice of not allowing infants to remain with their mothers while in custody and in particular, the unequal treatment of mothers, on the basis of the nationality, regarding the possibility of leave from prison when breastfeeding their babies, which amounts to discrimination (arts. 10, 17 and 26).

The State party should review its practice of separating infants from their mothers and of using nationality as a criterion to decide on requests for leave from prison when breastfeeding. It should further consider imposing appropriate non-custodial measures in such cases.

(17) The Committee notes with concern reports of a high incidence of discriminatory police stops of persons based on their apparent ethnic origin (art. 26).

The State party should seek to ensure that such police stops are not discriminatory or excessive and should put in place a system to monitor the incidence of such stops to assure that there is no discrimination. The State party should also address this problem through specific training and education programmes to raise police awareness.

(18) The State party should disseminate widely the text of its fifth periodic report and the present concluding observations. The Committee welcomes the State party's plans to expand its distribution beyond what it has done in the past.

(19) The Committee requests the State party to provide in its next report, which it is scheduled to submit by October 2009, information on the recommendations made and on the Covenant as a whole.

82. **Hong Kong Special Administrative Region (China)**

(1) The Human Rights Committee considered the second periodic report of the Hong Kong Special Administrative Region (HKSAR) of China (CCPR/C/HKG/2005/2) at its 2350th and 2351st meetings (CCPR/C/SR.2350-2351), on 20 and 21 March 2006. This report is the second submitted by the People's Republic of China after the return of the HKSAR to Chinese sovereignty on 1 July 1997. The Committee adopted the following concluding observations at its 2364th and 2365th meetings (CCPR/C/SR.2364), on 30 March 2006.

Introduction

(2) The Committee welcomes the submission of HKSAR's second periodic report, which was elaborated in conformity with the reporting guidelines, and the constructive dialogue with the delegation who provided comprehensive replies to the written and oral questions formulated by the Committee. The Committee welcomes also the wide publicity given to the report, the list of issues and its previous concluding observations. The Committee appreciates the process of consultations undertaken by the HKSAR for the preparation of the report, which included consultations with civil society.

Positive aspects

(3) The Committee welcomes initiatives taken to respond to the needs of minority communities, such as the establishment of the Ethnic Minorities Forum and the provision of funding for community level projects. It also welcomes the public education efforts carried out to foster a culture of mutual understanding and respect among people of different races.

(4) The Committee notes with appreciation the initiatives undertaken to promote non-discrimination on the grounds of sexual orientation.

(5) The Committee welcomes the putting in place, following a judgement of the Court of Final Appeal, of administrative procedures for the assessment of claims of torture made by persons facing deportation.

(6) The Committee welcomes the withdrawal of the National Security (Legislative Provisions) Bill introduced in 2003 under article 23 of the Basic Law, in view of the serious concerns which the Bill raised regarding the protection of rights under the Covenant.

(7) The Committee welcomes the measures taken in order to tackle domestic violence, including preventive measures, crisis intervention, support services for victims, treatment of offenders and the ongoing revision of the legislative framework.

Principal subjects of concern and recommendations

(8) The Committee regrets that the HKSAR has not implemented a number of recommendations contained in its previous concluding observations (CCPR/C/79/Add.117). It remains concerned regarding the limited mandate and powers of the Ombudsman, including its lack of oversight function of the police, and the Equal Opportunities Commission (art. 2).

The HKSAR should consider the establishment of an independent human rights institution compliant with the Paris Principles.

(9) The Committee remains concerned that investigations of police misconduct are still carried out by the police themselves through the Complaints Against Police Office (CAPO), and that the Independent Police Complaints Council (IPCC) does not have the power to ensure proper and effective investigation of complaints or for the effective implementation of its recommendations (art. 2).

The HKSAR should ensure that the investigation of complaints against the police is carried out by an independent body, the decisions of which are binding on relevant authorities.

(10) The Committee remains concerned at the absence of adequate legal protection of individuals against deportation to locations where they might be subjected to grave human rights violations, such as those contrary to articles 6 and 7 of the Covenant.

The HKSAR should establish an appropriate mechanism to assess the risk faced by individuals expressing fears of being victims of grave human rights violations in the locations to which they may be returned.

(11) The Committee is concerned at reports that Hong Kong residents detained on the Mainland encounter difficulties in having contact with their families in Hong Kong (art. 10).

The HKSAR should take measures to ensure that the notification system between the Regional and Mainland authorities is complied with and that cases of detention are notified promptly to the relatives in the Region.

(12) The Committee remains concerned that no clear legislative framework exists regarding the capacity of law enforcement agencies to intercept communications and carry out covert surveillance (art. 17).

The HKSAR should enact legislation on the matter which is in full conformity with article 17 of the Covenant and provide a mechanism of protection and redress to individuals claiming interference with their privacy or correspondence.

(13) The Committee is concerned about reports of intimidation and harassment against journalists and media personnel, frequently in connection with debates on political issues (art. 19).

The HKSAR should take vigorous measures to prevent and prosecute harassment of media personnel, and ensure that the media can operate independently and free from government intervention.

(14) The Committee is concerned that the current definition of the offences of treason and sedition in the Crimes Ordinance is too broad (arts. 19, 21, 22).

The HKSAR should amend its legislation regarding such offences to bring it into full conformity with the Covenant.

(15) The Committee notes with concern that, as a result of the right of abode policies, many families remain separated or their members feel necessitated to stay in HKSAR illegally. In some cases, family members who have been repatriated to the Mainland are not even provided with two-way permits to visit their families in HKSAR (arts. 23 and 24).

The HKSAR should ensure that its policies and practices regarding the right of abode fully take into consideration its obligations regarding the right of families and children to protection enshrined in articles 23 and 24 of the Covenant.

(16) Notwithstanding the measures adopted by the HKSAR to tackle the problem of domestic violence, concerns persist, including regarding the handling of cases by the police and the funding of social services to assist the victims (arts. 3, 23, 24).

The HKSAR should make sure that police officers receive proper training to deal with cases of domestic violence and ensure adequate allocation of resources for protection and provision of assistance to the victims.

(17) The Committee is concerned about allegations of threats and acts of vandalism against some legislators during the run up to elections in 2004 and it regrets that the HKSAR did not provide it with information on the difficulties caused to legislators of the Democratic Party (arts. 19 and 25).

The HKSAR should investigate allegations of harassment of legislators, ensure that they do not recur and take the necessary steps for full compliance with articles 19 and 25.

(18) The Committee recalls that in the concluding observations regarding the part of the fourth periodic report of the United Kingdom of Great Britain and Northern Ireland relating to Hong Kong, adopted on 1 November 1995, it referred to the reservation made by the United Kingdom according to which article 25 (b) did not require the establishment of an elected legislature in Hong Kong. The Committee took the view that once an elected Legislative Council is established, its election must conform to article 25 of the Covenant. As stated at that time, and reiterated in its concluding observations on the initial report of the HKSAR, adopted on 4 November 1999, the Committee still considers that the electoral system in Hong Kong does not meet the requirements of article 25, as well as articles 2, paragraph 1, and 26 of the Covenant. Furthermore, the Committee is concerned that the implementation of the procedure for interpretation of the Basic Law, such as on electoral and public affairs issues, does not include adequate arrangements to ensure that such interpretations are in compliance with the Covenant (arts. 2, 25, 26).

All necessary measures should be taken whereby the Legislative Council is elected by universal and equal suffrage. It should be ensured that all interpretations of the Basic Law, including on electoral and public affairs issues, are in compliance with the Covenant.

(19) While welcoming the measures taken by the HKSAR to combat racial discrimination, the Committee remains concerned at the absence of relevant specific legislation (art. 26).

The Committee urges the HKSAR to adopt the necessary legislation in order to ensure full compliance with article 26 of the Covenant.

(20) The Committee sets 2010 as the date for the submission of the HKSAR's third periodic report. It requests that the present concluding observations be published and widely disseminated to the general public, as well as to the judicial, legislative and administrative authorities.

(21) In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the HKSAR should submit within one year information on the follow-up given to the Committee's recommendations in paragraphs 9, 13, 15 and 18. The Committee requests the HKSAR to include in its next periodic report information on its remaining recommendations and on the implementation of the Covenant as a whole.

83. **Central African Republic**

(1) The Human Rights Committee considered the second periodic report of the Central African Republic (CCPR/C/CAF/2004/2) at its 2373rd and 2374th meetings on 12 and 13 July 2006 (CCPR/C/SR.2373 and 2374). It adopted the following concluding observations at its 2391st meeting (CCPR/C/SR.2391) on 25 July 2006.

Introduction

(2) The Committee welcomes the submission of the second periodic report of the Central African Republic and the opportunity thus offered to resume its dialogue with the State party after an interval of more than 20 years, since the State party was unable to submit its report in 2004. The Committee feels that the failure to submit a report for such a long period of time, even though the situation has been difficult, constitutes a breach by the Central African Republic of its obligations under article 40 of the Covenant and an obstacle to a more thoroughgoing consideration of the steps to be taken to ensure the satisfactory implementation of the provisions of the Covenant. The Committee invites the State party to submit its reports from now on in accordance with the schedule established by the Committee.

Positive aspects

(3) The Committee notes the efforts made by the State party to ensure greater respect for human rights and to establish the rule of law in the Central African Republic. It also notes the delegation's undertaking to implement the Committee's recommendations expeditiously.

(4) The Committee welcomes the adoption of Order No. 05.002 of 22 February 2005 promulgating the Freedom of the Press and Communication (Organization) Act, which decriminalizes press offences.

(5) The Committee commends the measures taken by the State party in respect of juvenile justice, such as the introduction of juvenile courts in 2001, and the fact that minors are no longer imprisoned.

Principal subjects of concern and recommendations

(6) The Committee notes that the preamble to the Constitution of 27 December 2004 reaffirms the commitment of the State party to the Covenant and other international human rights instruments. It regrets, however, that the Covenant has not been fully incorporated into domestic law and that it has not yet been invoked in the courts or before the administrative authorities (article 2 of the Covenant).

> **The State party should ensure that its legislation gives full effect to the rights recognized in the Covenant. The Covenant should be made known to the general public, and in particular to law enforcement personnel. The State party should ensure that remedies are available for the exercise of those rights.**

(7) The Committee notes with concern that numerous serious human rights violations have been and continue to be committed with total impunity in the Central African Republic. It notes that any sanctions tend to be administrative and military in nature, rather than judicial (article 2 of the Covenant).

> **The State party should take all appropriate steps to ensure that all human rights violations brought to its attention are investigated, and that those responsible for such violations, including civil servants, army personnel and police officials, are prosecuted and punished.**

(8) The Committee notes with concern that, to date, the authorities have not carried out any exhaustive and independent appraisal of serious violations of human rights and international humanitarian law in the Central African Republic and that the victims have received no reparations (arts. 2, 6 and 7).

The State party should in all circumstances ensure that victims of serious violations of human rights and international humanitarian law are guaranteed effective remedy, which is implemented in practice, including the right to as full compensation and reparations as possible. The State party should act swiftly to implement the recommendations of the "national dialogue" on the establishment of a truth and reconciliation commission.

(9) The Committee notes with concern a persistent pattern of discrimination against women, both in the exercise of their political rights and in the area of education. It is also concerned about discrimination against women in the marriage relationship, in particular with regard to the exercise of parental authority and the choice of residence. The Committee further notes with concern the assertion by the State party that, despite its willingness to implement reforms to combat discrimination against women, the women themselves do not wish to enjoy the same rights as men. The Committee draws the attention of the Central African Republic in particular to its general comment No. 28 (CCPR/C/21/Rev.1/Add.10) of 29 March 2000 on the equality of rights between men and women (articles 3, 23, 25 and 26 of the Covenant).

(a) The State party should speed up the process of adapting the Family Code to international instruments, including articles 3, 23 and 26 of the Covenant, in particular with regard to the exercise of parental authority and the choice of residence.

(b) The State party should step up its efforts to raise women's awareness of their rights and to promote women's participation in political affairs and their access to education and employment. In its next report, the State party should inform the Committee of any relevant actions taken and results achieved.

(10) The Committee regrets that the State party has not yet abolished polygamy, a discriminatory practice which is contrary to women's dignity and is incompatible with the principles enshrined in the Covenant. In that regard, the Committee draws the attention of the Central African Republic to its general comment No. 28 (CCPR/C/21/Rev.1/Add.10, para. 24) on the equality of rights between men and women (articles 3 and 26 of the Covenant).

The State party should abolish polygamy and combat it through effective means.

(11) While noting the State party's efforts to bring an end to female genital mutilation, the Committee remains concerned by the persistence of this practice, which is contrary to human dignity, and regrets that it is not penalized by the Criminal Code (articles 3 and 7 of the Covenant).

The State party should step up its efforts to mobilize public opinion against female genital mutilation, in particular in communities where the practice remains widespread. The State party should take measures to criminalize female genital mutilation and ensure that the perpetrators are brought to justice.

(12) The Committee remains concerned by the large number of enforced disappearances and summary and arbitrary executions in the Central African Republic. The Committee further notes with concern the reports suggesting that torture and cruel, inhuman and degrading treatment are widespread in the State party, and is concerned about the apparent impunity enjoyed by law enforcement officers responsible for such violations. It is gravely concerned by information provided in the State party's report to the effect that the Central Office for the Prevention of Banditry "systematically carries out summary and extrajudicial executions with complete impunity" (CCPR/C/CAF/2004/2, para. 204). The Committee is also concerned that, in one case, army personnel forcibly entered a police station to apprehend, torture and kill a detainee (the Sanzé case) and that such abuse comes under military justice (articles 2, 6, 7 and 9 of the Covenant).

The State party should guarantee that all allegations of such violations are investigated by an independent body, and that the perpetrators of such acts are prosecuted and punished as appropriate. In this respect, the State party should improve the training provided to law enforcement personnel. Victims should be granted due compensation. In its next report, the State party should provide detailed information on complaints filed in connection with such acts, the number of persons prosecuted and convicted, including current or former members of the Central Office for the Prevention of Banditry, and the reparations paid to victims over the past three years.

(13) The Committee notes with concern that, as reported by the State party, although the death penalty has not been implemented since 1981, it cannot be abolished in the Central African Republic because of public opposition and the high crime rate. It also notes that the State party has agreed to reconsider its decision to add the crimes covered by the Rome Statute of the International Criminal Court to the list of offences liable to capital punishment. It recalls nevertheless that the Rome Statute does not prescribe the death penalty for such crimes (articles 2 and 6 of the Covenant).

In accordance with the provisions of article 6 of the Covenant and in the light of the policy of abolishing capital punishment in practice in the Central African Republic, the State party should ensure that the death penalty is not extended to new crimes. The State party is encouraged to abolish the death penalty and to accede to the Second Optional Protocol to the Covenant.

(14) The Committee is concerned about the legal duration of police custody, which can be extended to 16 days, an excessively long period which is often exceeded in practice. In addition, the Committee notes with concern that pertinent legislation does not guarantee persons held in police custody access to defence counsel, a doctor or their families. The Committee notes with concern that there is no legal limit to the duration of pretrial detention (articles 7 and 9 of the Covenant).

The State party should ensure that limits are set to the legal period of police custody and pretrial detention in the new Code of Criminal Procedure, consistent with the provisions of the Covenant, and ensure compliance with those limits. The right of persons held in police custody or pretrial detention to access defence counsel,

a doctor or their families should be enshrined in the new Code of Criminal Procedure. The State party is invited to provide detailed information on measures taken to ensure respect in practice for the rights of persons held in police custody, and on mechanisms to monitor the conditions of such detention, in its next periodic report.

(15) The Committee is concerned by the adverse conditions of detention in the country's prisons, which, according to the State party, are currently in a state of advanced dilapidation. The Committee is particularly concerned by the fact that most prisoners suffer from malnutrition (article 10, paragraph 1, of the Covenant).

The State party should ensure that conditions of detention in the country's prisons are compatible with the Standard Minimum Rules for the Treatment of Prisoners (A/CONF.6/1) and that all prisoners are adequately fed. The State party is encouraged to redouble its efforts to refurbish its prisons.

(16) The Committee is concerned by reports suggesting that the independence of the judiciary is not guaranteed in practice (article 14 of the Covenant).

The State party should endeavour to suppress corrupt practices in the judiciary. It should also recruit and train a sufficient number of judges in order to ensure adequate administration of justice throughout the country and to combat crime and impunity. Sufficient budgetary resources should be allocated for the administration of justice.

(17) Taking note of legislative reforms to promote press freedom, the Committee nevertheless observes with concern that many journalists have been subjected to pressure, intimidation or acts of aggression, and even imprisonment or ill-treatment, by the State party authorities (article 19 of the Covenant).

The State party should guarantee the exercise of freedom of expression for the press and the media, in accordance with article 19 of the Covenant.

(18) The Committee is concerned that many human rights defenders are unable freely to carry out their work and are subjected to harassment and intimidation by the security forces (articles 9, 21 and 22 of the Covenant).

The State party should respect and protect the activities of human rights defenders. It should ensure that any restrictions imposed on their activities are compatible with the provisions of articles 21 and 22 of the Covenant.

(19) The Committee has set 1 August 2010 as the date by which the next periodic report of the Central African Republic will be due. It requests that the text of the present report and these concluding observations be made public and disseminated adequately and promptly throughout the Central African Republic. It also requests that the next periodic report be made available to civil society and to non-governmental organizations operating in the State party.

(20) In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should submit information within one year on the follow-up given to the Committee's recommendations contained in paragraphs 11, 12 and 13. The Committee requests the State party to provide information in its next report on the Committee's other recommendations and on the application of the Covenant as a whole.

84. **United States of America**

(1) The Committee considered the second and third periodic reports of the United States of America (CCPR/C/USA/3) at its 2379th, 2380th and 2381st meetings (CCPR/C/SR.2379-2381), held on 17 and 18 July 2006, and adopted the following concluding observations at its 2395th meeting (CCPR/C/SR.2395), held on 27 July 2006.

Introduction

(2) The Committee notes the submission of the State party's second and third periodic combined report, which was seven years overdue, as well as the written answers provided in advance. It appreciates the attendance of a delegation composed of experts belonging to various agencies responsible for the implementation of the Covenant, and welcomes their efforts to answer to the Committee's written and oral questions.

(3) The Committee regrets that the State party has not integrated into its report information on the implementation of the Covenant with respect to individuals under its jurisdiction and outside its territory. The Committee notes however that the State party has provided additional material "out of courtesy". The Committee further regrets that the State party, invoking grounds of non-applicability of the Covenant or intelligence operations, refused to address certain serious allegations of violations of the rights protected under the Covenant.

(4) The Committee regrets that only limited information was provided on the implementation of the Covenant at the State level.

Positive aspects

(5) The Committee welcomes the Supreme Court's decision in *Hamdan v. Rumsfeld* (2006) establishing the applicability of common article 3 of the Geneva Conventions of 12 August 1949, which reflects fundamental rights guaranteed by the Covenant in any armed conflict.

(6) The Committee welcomes the Supreme Court's decision in *Roper v. Simmons* (2005), which held that the Eighth and Fourteenth Amendments forbid imposition of the death penalty on offenders who were under the age of 18 when their crimes were committed. In this regard, the Committee reiterates the recommendation made in its previous concluding observations, encouraging the State party to withdraw its reservation to article 6 (5) of the Covenant.

(7) The Committee welcomes the Supreme Court's decision in *Atkins v. Virginia* (2002), which held that executions of mentally retarded criminals are cruel and unusual punishments, and encourages the State party to ensure that persons suffering from severe forms of mental illness not amounting to mental retardation are equally protected.

(8) The Committee welcomes the promulgation of the National Detention Standards in 2000, establishing minimum standards for detention facilities holding Department of Homeland Security detainees, and encourages the State party to adopt all measures necessary for their effective enforcement.

(9) The Committee welcomes the Supreme Court's decision in *Lawrence et al. v. Texas* (2003), which declared unconstitutional legislation criminalizing homosexual relations between consenting adults.

Principal subjects of concern and recommendations

(10) The Committee notes with concern the restrictive interpretation made by the State party of its obligations under the Covenant, as a result in particular of (a) its position that the Covenant does not apply with respect to individuals under its jurisdiction but outside its territory, nor in time of war, despite the contrary opinions and established jurisprudence of the Committee and the International Court of Justice; (b) its failure to take fully into consideration its obligation under the Covenant not only to respect, but also to ensure the rights prescribed by the Covenant; and (c) its restrictive approach to some substantive provisions of the Covenant, which is not in conformity with the interpretation made by the Committee before and after the State party's ratification of the Covenant (arts. 2 and 40).

> **The State party should review its approach and interpret the Covenant in good faith, in accordance with the ordinary meaning to be given to its terms in their context, including subsequent practice, and in the light of its object and purpose. The State party should in particular (a) acknowledge the applicability of the Covenant with respect to individuals under its jurisdiction but outside its territory, as well as its applicability in time of war; (b) take positive steps, when necessary, to ensure the full implementation of all rights prescribed by the Covenant; and (c) consider in good faith the interpretation of the Covenant provided by the Committee pursuant to its mandate.**

(11) The Committee expresses its concern about the potentially overbroad reach of the definitions of terrorism under domestic law, in particular under 8 U.S.C. § 1182 (a) (3) (B) and Executive Order 13224 which seem to extend to conduct, e.g. in the context of political dissent, which, although unlawful, should not be understood as constituting terrorism (arts. 17, 19 and 21).

> **The State party should ensure that its counter-terrorism measures are in full conformity with the Covenant and in particular that the legislation adopted in this context is limited to crimes that would justify being assimilated to terrorism, and the grave consequences associated with it.**

(12) The Committee is concerned by credible and uncontested information that the State party has seen fit to engage in the practice of detaining people secretly and in secret places for months and years on end, without keeping the International Committee of the Red Cross informed. In such cases, the rights of the families of the detainees are also being violated. The Committee is also concerned that, even when such persons may have their detention acknowledged, they have been held incommunicado for months or years, a practice that violates the rights protected by articles 7 and 9. In general, the Committee is concerned by the fact that people are detained in

places where they cannot benefit from the protection of domestic or international law or where that protection is substantially curtailed, a practice that cannot be justified by the stated need to remove them from the battlefield (arts. 7 and 9).

The State party should immediately cease its practice of secret detention and close all secret detention facilities. It should also grant the International Committee of the Red Cross prompt access to any person detained in connection with an armed conflict. The State party should also ensure that detainees, regardless of their place of detention, always benefit from the full protection of the law.

(13) The Committee is concerned with the fact that the State party has authorized for some time the use of enhanced interrogation techniques, such as prolonged stress positions and isolation, sensory deprivation, hooding, exposure to cold or heat, sleep and dietary adjustments, 20-hour interrogations, removal of clothing and deprivation of all comfort and religious items, forced grooming, and exploitation of detainees' individual phobias. Although the Committee welcomes the assurance that, according to the Detainee Treatment Act of 2005, such interrogation techniques are prohibited by the present Army Field Manual on Intelligence Interrogation, the Committee remains concerned that (a) the State party refuses to acknowledge that such techniques, several of which were allegedly applied, either individually or in combination, over a protracted period of time, violate the prohibition contained by article 7 of the Covenant; (b) no sentence has been pronounced against an officer, employee, member of the Armed Forces, or other agent of the United States Government for using harsh interrogation techniques that had been approved; (c) these interrogation techniques may still be authorized or used by other agencies, including intelligence agencies and "private contractors"; and (d) the State party has provided no information to the fact that oversight systems of such agencies have been established to ensure compliance with article 7.

The State party should ensure that any revision of the Army Field Manual only provides for interrogation techniques in conformity with the international understanding of the scope of the prohibition contained in article 7 of the Covenant; the State party should also ensure that the current interrogation techniques or any revised techniques are binding on all agencies of the United States Government and any others acting on its behalf; the State party should ensure that there are effective means to follow suit against abuses committed by agencies operating outside the military structure and that appropriate sanctions be imposed on its personnel who used or approved the use of the now prohibited techniques; the State party should ensure that the right to reparation of the victims of such practices is respected; and it should inform the Committee of any revisions of the interrogation techniques approved by the Army Field Manual.

(14) The Committee notes with concern shortcomings concerning the independence, impartiality and effectiveness of investigations into allegations of torture and cruel, inhuman or degrading treatment or punishment inflicted by United States military and non-military personnel or contract employees, in detention facilities in Guantánamo Bay, Afghanistan, Iraq, and other overseas locations, and to alleged cases of suspicious death in custody in any of these locations. The Committee regrets that the State party did not provide sufficient information regarding the prosecutions launched, sentences passed (which appear excessively light for offences of such gravity) and reparation granted to the victims (arts. 6 and 7).

The State party should conduct prompt and independent investigations into all allegations concerning suspicious deaths, torture or cruel, inhuman or degrading treatment or punishment inflicted by its personnel (including commanders) as well as contract employees, in detention facilities in Guantánamo Bay, Afghanistan, Iraq and other overseas locations. The State party should ensure that those responsible are prosecuted and punished in accordance with the gravity of the crime. The State party should adopt all necessary measures to prevent the recurrence of such behaviours, in particular by providing adequate training and clear guidance to its personnel (including commanders) and contract employees, about their respective obligations and responsibilities, in line with articles 7 and 10 of the Covenant. During the course of any legal proceedings, the State party should also refrain from relying on evidence obtained by treatment incompatible with article 7. The Committee wishes to be informed about the measures taken by the State party to ensure the respect of the right to reparation for the victims.

(15) The Committee notes with concern that section 1005 (e) of the Detainee Treatment Act bars detainees in Guantánamo Bay from seeking review in case of allegations of ill-treatment or poor conditions of detention (arts. 7 and 10).

The State party should amend section 1005 of the Detainee Treatment Act so as to allow detainees in Guantánamo Bay to seek review of their treatment or conditions of detention before a court.

(16) The Committee notes with concern the State party's restrictive interpretation of article 7 of the Covenant according to which it understands (a) that the obligation not to subject anyone to treatment does not include an obligation not to expose anyone to such treatment by means of transfer, rendition, extradition, expulsion or refoulement; (b) that, in any case, it is not under any other obligation not to deport an individual who may undergo cruel, inhumane or degrading treatment or punishment other than torture, as the State party understands the term; and (c) that it is not under any international obligation to respect a non-refoulement rule in relation to persons it detains outside its territory. The Committee also notes with concern the "more likely than not" standard the State party uses in non-refoulement procedures. The Committee is concerned that in practice the State party appears to have adopted a policy to remove, or to assist in removing, either from the United States or other States' territories, suspected terrorists to third countries, for the purpose of detention and interrogation, without the appropriate safeguards to protect them from treatment prohibited by the Covenant. The Committee is also concerned by numerous, well-publicized and documented allegations that persons sent to third countries in this way were indeed detained and interrogated under conditions grossly violating the prohibition contained in article 7, allegations that the State party did not contest. It is deeply concerned with the invocation of State-secrets privilege in cases where the victims of these practices have brought claim before the State party's courts (e.g. the cases of *Maher Arar v. Ashcroft* (2006) and *Khaled Al-Masri v. Tenet* (2006)) (art. 7).

The State party should review its position, in accordance with the Committee's general comments No. 20 (1992) on article 7 and No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant. The State party should take all necessary measures to ensure that detainees, including in facilities outside its own territory, are not removed to another country by way of, inter alia, transfer, rendition, extradition, expulsion or refoulement, if there are substantial

reasons to believe that they would be in danger of being subjected to torture or cruel, inhuman or degrading treatment or punishment. The State party should conduct thorough and independent investigations into allegations that persons have been removed to third countries where they have been victims of torture or cruel, inhuman or degrading treatment or punishment; modify its legislation and policies to ensure that no such situation will recur; and provide appropriate reparation to the victims. The State party should exercise the utmost care in the use of diplomatic assurances and adopt clear and transparent procedures, with adequate judicial mechanisms for review, prior to removing any detainees to third countries. It should also establish effective mechanisms to monitor scrupulously and vigorously the removal of detainees to third countries. The State party should be aware that in countries where torture or cruel, inhuman or degrading treatment are common practice, it is likely to be used regardless of assurances to the contrary, however stringent any agreed follow-up procedures may be.

(17) The Committee is concerned that the Patriot Act and the 2005 REAL ID Act of 2005 may bar from asylum and withholding of removal any person who has provided "material support" to a "terrorist organization", whether voluntarily or under duress. It regrets having received no response on this matter from the State party (art. 7).

The State party should ensure that the "material support to terrorist organizations" bar is not applied to those who acted under duress.

(18) The Committee is concerned that, following the Supreme Court ruling in *Rasul v. Bush* (2004), proceedings before Combatant Status Review Tribunals (CSRTs) and Administrative Review Boards (ARBs), mandated respectively to determine and review the status of detainees, may not offer adequate safeguards of due process, in particular due to: (a) their lack of independence from the executive branch and the army, (b) restrictions on the rights of detainees to have access to all proceedings and evidence, (c) the inevitable difficulty CSRTs and ARBs face in summoning witnesses, and (d) the possibility given to CSRTs and ARBs, under section 1005 of the 2005 Detainee Treatment Act, to weigh evidence obtained by coercion for its probative value. The Committee is further concerned that detention in other locations, such as Afghanistan and Iraq, is reviewed by mechanisms providing even fewer guarantees (art. 9).

The State party should ensure, in accordance with article 9 (4) of the Covenant, that persons detained in Guantánamo Bay are entitled to proceedings before a court to decide, without delay, on the lawfulness of their detention or order their release. Due process, independence of the reviewing courts from the executive branch and the army, access of detainees to counsel of their choice and to all proceedings and evidence, should be guaranteed in this regard.

(19) The Committee, having taken into consideration information provided by the State party, is concerned by reports that, following the September 11 attacks, many non-United States citizens, suspected to have committed terrorism-related offences have been detained for long periods pursuant to immigration laws with fewer guarantees than in the context of criminal procedures, or on the basis of the Material Witness Statute only. The Committee is also concerned with the compatibility of the Statute with the Covenant since it may be applied for upcoming trials but also to investigations or proposed investigations (art. 9).

The State party should review its practice with a view to ensuring that the Material Witness Statute and immigration laws are not used so as to detain persons suspected of terrorism or any other criminal offences with fewer guarantees than in criminal proceedings. The State party should also ensure that those improperly so detained receive appropriate reparation.

(20) The Committee notes that the decision of the Supreme Court in *Hamdan v. Rumsfeld*, according to which Guantánamo Bay detainees accused of terrorism offences are to be judged by a regularly constituted court affording all the judicial guarantees required by common article 3 of the Geneva Conventions of 12 August 1949, remains to be implemented (art. 14).

The State party should provide the Committee with information on its implementation of the decision.

(21) The Committee, while noting some positive amendments introduced in 2006, notes that section 213 of the Patriot Act, expanding the possibility of delayed notification of home and office searches; section 215 regarding access to individuals' personal records and belongings; and section 505, relating to the issuance of national security letters, still raise issues of concern in relation to article 17 of the Covenant. In particular, the Committee is concerned about the restricted possibilities for the concerned persons to be informed about such measures and to effectively challenge them. Furthermore, the Committee is concerned that the State party, including through the National Security Agency (NSA), has monitored and still monitors phone, email, and fax communications of individuals both within and outside the United States, without any judicial or other independent oversight (arts. 2 (3) and 17).

The State party should review sections 213, 215 and 505 of the Patriot Act to ensure full compatibility with article 17 of the Covenant. The State party should ensure that any infringement on individual's rights to privacy is strictly necessary and duly authorized by law, and that the rights of individuals to follow suit in this regard are respected.

(22) The Committee is concerned with reports that some 50 per cent of homeless people are African American although they constitute only 12 per cent of the United States population (arts. 2 and 26).

The State party should take measures, including adequate and adequately implemented policies, to bring an end to such de facto and historically generated racial discrimination.

(23) The Committee notes with concern reports of de facto racial segregation in public schools, reportedly caused by discrepancies between the racial and ethnic composition of large urban districts and their surrounding suburbs, and the manner in which school districts are created, funded and regulated. The Committee is concerned that the State party, despite measures adopted, has not succeeded in eliminating racial discrimination such as regarding the wide disparities in the quality of education across school districts in metropolitan areas, to the detriment of minority students. It also notes with concern the State party's position that federal government authorities cannot take legal action if there is no indication of discriminatory intent by state or local authorities (arts. 2 and 26).

The Committee reminds the State party of its obligation under articles 2 and 26 of the Covenant to respect and ensure that all individuals are guaranteed effective protection against practices that have either the purpose or the effect of discrimination on a racial basis. The State party should conduct in-depth investigations into the de facto segregation described above and take remedial steps, in consultation with the affected communities.

(24) The Committee, while welcoming the mandate given to the Attorney General to review the use by federal enforcement authorities of race as a factor in conducting stops, searches, and other enforcement procedures, and the prohibition of racial profiling made in guidance to federal law enforcement officials, remains concerned about information that such practices still persist in the State party, in particular at the state level. It also notes with concern information about racial disparities and discrimination in prosecuting and sentencing processes in the criminal justice system (arts. 2 and 26).

The State party should continue and intensify its efforts to put an end to racial profiling used by federal as well as state law enforcement officials. The Committee wishes to receive more detailed information about the extent to which such practices still persist, as well as statistical data on complaints, prosecutions and sentences in such matters.

(25) The Committee notes with concern allegations of widespread incidence of violent crime perpetrated against persons of minority sexual orientation, including by law enforcement officials. It notes with concern the failure to address such crime in the legislation on hate crime adopted at the federal level and in many states. It notes with concern the failure to outlaw employment discrimination on the basis of sexual orientation in many states (arts. 2 and 26).

The State party should acknowledge its legal obligation under articles 2 and 26 to ensure to everyone the rights recognized by the Covenant, as well as equality before the law and equal protection of the law, without discrimination on the basis of sexual orientation. The State party should ensure that its hate crime legislation, both at the federal and state levels, address sexual orientation-related violence and that federal and state employment legislation outlaw discrimination on the basis of sexual orientation.

(26) The Committee, while taking note of the various rules and regulations prohibiting discrimination in the provision of disaster relief and emergency assistance, remains concerned about information that the poor, and in particular African-Americans, were disadvantaged by the rescue and evacuation plans implemented when Hurricane Katrina hit the United States, and continue to be disadvantaged under the reconstruction plans (arts. 6 and 26).

The State party should review its practices and policies to ensure the full implementation of its obligation to protect life and of the prohibition of discrimination, whether direct or indirect, as well as of the United Nations Guiding Principles on Internal Displacement, in matters related to disaster prevention and preparedness, emergency assistance and relief measures. In the aftermath of Hurricane Katrina, the State party should increase its efforts to ensure that the

rights of the poor, and in particular African-Americans, are fully taken into consideration in the reconstruction plans with regard to access to housing, education and health care. The Committee wishes to be informed about the results of the inquiries into the alleged failure to evacuate prisoners at the Parish prison, as well as the allegations that New Orleans residents were not permitted by law enforcement officials to cross the Greater New Orleans Bridge to Gretna, Louisiana.

(27) The Committee regrets that it has not received sufficient information on the measures the State party considers adopting in relation to the reportedly 9 million undocumented migrants now in the United States. While noting the information provided by the delegation that National Guard troops will not engage in direct law enforcement duties in the apprehension or detention of aliens, the Committee remains concerned about the increased level of militarization on the southwest border with Mexico (arts. 12 and 26).

The State party should provide the Committee with more detailed information on these issues, in particular on the concrete measures adopted to ensure that only agents who have received adequate training on immigration issues enforce immigration laws, which should be compatible with the rights guaranteed by the Covenant.

(28) The Committee regrets that many federal laws which address sex discrimination are limited in scope and restricted in implementation. The Committee is especially concerned about the reported persistence of employment discrimination against women (arts. 3 and 26).

The State party should take all steps necessary, including at state level, to ensure the equality of women before the law and equal protection of the law, as well as effective protection against discrimination on the ground of sex, in particular in the area of employment.

(29) The Committee regrets that the State party does not indicate that it has taken any steps to review federal and state legislation with a view to assessing whether offences carrying the death penalty are restricted to the most serious crimes, and that, despite the Committee's previous concluding observations, the State party has extended the number of offences for which the death penalty is applicable. While taking note of some efforts towards the improvement of the quality of legal representation provided to indigent defendants facing capital punishment, the Committee remains concerned by studies according to which the death penalty may be imposed disproportionately on ethnic minorities as well as on low-income groups, a problem which does not seem to be fully acknowledged by the State party (arts. 6 and 14).

The State party should review federal and state legislation with a view to restricting the number of offences carrying the death penalty. The State party should also assess the extent to which death penalty is disproportionately imposed on ethnic minorities and on low-income population groups, as well as the reasons for this, and adopt all appropriate measures to address the problem. In the meantime, the State party should place a moratorium on capital sentences, bearing in mind the desirability of abolishing death penalty.

(30) The Committee reiterates its concern about reports of police brutality and excessive use of force by law enforcement officials. The Committee is concerned in particular by the use of so-called less lethal restraint devices, such as electro-muscular disruption devices (EMDs), in situations where lethal or other serious force would not otherwise have been used. It is concerned about information according to which police have used tasers against unruly schoolchildren; mentally disabled or intoxicated individuals involved in disturbed but non-life-threatening behaviour; elderly people; pregnant women; unarmed suspects fleeing minor crime scenes and people who argue with officers or simply fail to comply with police commands, without in most cases the responsible officers being found to have violated their departments' policies (arts. 6 and 7).

The State party should increase significantly its efforts towards the elimination of police brutality and excessive use of force by law enforcement officials. The State party should ensure that EMDs and other restraint devices are only used in situations where greater or lethal force would otherwise have been justified, and in particular that they are never used against vulnerable persons. The State party should bring its policies into line with the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

(31) The Committee notes that (a) waivers of consent in research regulated by the United States Department of Health and Human Services and the Food and Drug Administration may be given in case of individual and national emergencies; (b) some research may be conducted on persons vulnerable to coercion or undue influence such as children, prisoners, pregnant women, mentally disabled persons, or economically disadvantaged persons; (c) non-therapeutic research may be conducted on mentally ill persons or persons with impaired decision-making capacity, including minors; and (d) although no waivers have been given so far, domestic law authorizes the President to waive the prior informed-consent requirement for the administration of an investigational new drug to a member of the United States Armed Forces, if the President determines that obtaining consent is not feasible, is contrary to the best interests of the military members, or is not in the interests of United States national security (art. 7).

The State party should ensure that it meets its obligation under article 7 of the Covenant not to subject anyone without his/her free consent to medical or scientific experimentation. The Committee recalls in this regard the non-derogable character of this obligation under article 4 of the Covenant. When there is doubt as to the ability of a person or a category of persons to give such consent, e.g. prisoners, the only experimental treatment compatible with article 7 would be treatment chosen as the most appropriate to meet the medical needs of the individual.

(32) The Committee reiterates its concern that conditions in some maximum security prisons are incompatible with the obligation contained in article 10 (1) of the Covenant to treat detainees with humanity and respect for the inherent dignity of the human person. It is particularly concerned by the practice in some such institutions to hold detainees in prolonged cellular confinement, and to allow them out-of-cell recreation for only five hours per week, in general conditions of strict regimentation in a depersonalized environment. It is also concerned that such treatment cannot be reconciled with the requirement in article 10 (3) that the penitentiary system shall comprise treatment the essential aim of which shall be the reformation and social rehabilitation of prisoners. It also expresses concern about the reported high numbers of severely mentally ill persons in these prisons, as well as in regular United States jails.

The State party should scrutinize conditions of detention in prisons, in particular in maximum security prisons, with a view to guaranteeing that persons deprived of their liberty be treated in accordance with the requirements of article 10 of the Covenant and the United Nations Standard Minimum Rules for the Treatment of Prisoners.

(33) The Committee, while welcoming the adoption of the Prison Rape Elimination Act of 2003, regrets that the State party has not implemented its previous recommendation that legislation allowing male officers access to women's quarters should be amended to provide at least that they will always be accompanied by women officers. The Committee also expresses concern about the shackling of detained women during childbirth (arts. 7 and 10).

The Committee reiterates its recommendation that male officers should not be granted access to women's quarters, or at least be accompanied by women officers. The Committee also recommends the State party to prohibit the shackling of detained women during childbirth.

(34) The Committee notes with concern reports that 42 states and the Federal Government have laws allowing persons under the age of 18 at the time the offence was committed, to receive life sentences, without parole, and that about 2,225 youth offenders are currently serving life sentences in United States prisons. The Committee, while noting the State party's reservation to treat juveniles as adults in exceptional circumstances notwithstanding articles 10 (2) (b) and (3) and 14 (4) of the Covenant, remains concerned by information that treatment of children as adults is not only applied in exceptional circumstances. The Committee is of the view that sentencing children to life sentence without parole is of itself not in compliance with article 24 (1) of the Covenant (arts. 7 and 24).

The State party should ensure that no such child offender is sentenced to life imprisonment without parole, and should adopt all appropriate measures to review the situation of persons already serving such sentences.

(35) The Committee is concerned that about 5 million citizens cannot vote due to a felony conviction, and that this practice has significant racial implications. The Committee also notes with concern that the recommendation made in 2001 by the National Commission on Federal Election Reform that all states restore voting rights to citizens who have fully served their sentences has not been endorsed by all states. The Committee is of the view that general deprivation of the right to vote for persons who have received a felony conviction, and in particular those who are no longer deprived of liberty, do not meet the requirements of articles 25 or 26 of the Covenant, nor serves the rehabilitation goals of article 10 (3).

The State party should adopt appropriate measures to ensure that states restore voting rights to citizens who have fully served their sentences and those who have been released on parole. The Committee also recommends that the State party review regulations relating to deprivation of votes for felony conviction to ensure that they always meet the reasonableness test of article 25. The State party should also assess the extent to which such regulations disproportionately impact on the rights of minority groups and provide the Committee with detailed information in this regard.

(36) The Committee, having taken note of the responses provided by the delegation, remains concerned that residents of the District of Columbia do not enjoy full representation in Congress, a restriction which does not seem to be compatible with article 25 of the Covenant (arts. 2, 25 and 26).

The State party should ensure the right of residents of the District of Columbia to take part in the conduct of public affairs, directly or through freely chosen representatives, in particular with regard to the House of Representatives.

(37) The Committee notes with concern that no action has been taken by the State party to address its previous recommendation relating to the extinguishment of aboriginal and indigenous rights. The Committee, while noting that the guarantees provided by the Fifth Amendment apply to the taking of land in situations where treaties concluded between the Federal Government and Indian tribes apply, is concerned that in other situations, in particular where land was assigned by creating a reservation or is held by reason of long possession and use, tribal property rights can be extinguished on the basis of the plenary authority of Congress for conducting Indian affairs without due process and fair compensation. The Committee is also concerned that the concept of permanent trusteeship over the Indian and Alaska native tribes and their land as well as the actual exercise of this trusteeship in managing the so-called Individual Indian Money (IIM) accounts may infringe upon the full enjoyment of their rights under the Covenant. Finally, the Committee regrets that it has not received sufficient information on the consequences on the situation of Indigenous Native Hawaiians of Public Law 103-150 apologizing to the Native Hawaiian Peoples for the illegal overthrow of the Kingdom of Hawaii, which resulted in the suppression of the inherent sovereignty of the Hawaiian people (articles 1, 26 and 27 in conjunction with article 2, paragraph 3 of the Covenant).

The State party should review its policy towards indigenous peoples as regards the extinguishment of aboriginal rights on the basis of the plenary power of Congress regarding Indian affairs and grant them the same degree of judicial protection that is available to the non-indigenous population. The State party should take further steps to secure the rights of all indigenous peoples, under articles 1 and 27 of the Covenant, so as to give them greater influence in decision-making affecting their natural environment and their means of subsistence as well as their own culture.

(38) The Committee sets 1 August 2010 as the date for the submission of the fourth periodic report of the United States of America. It requests that the State party's second and third periodic reports and the present concluding observations be published and widely disseminated in the State party, to the general public as well as to the judicial, legislative and administrative authorities, and that the fourth periodic report be circulated for the attention of the non-governmental organizations operating in the country.

(39) In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should submit within one year information on the follow-up given to the Committee's recommendations in paragraphs 12, 13, 14, 16, 20 and 26 above. The Committee requests the State party to include in its next periodic report information on its remaining recommendations and on the implementation of the Covenant as a whole, as well as about the practical implementation of the Covenant, the difficulties encountered in this regard, and the

implementation of the Covenant at state level. The State party is also encouraged to provide more detailed information on the adoption of effective mechanisms to ensure that new and existing legislation, at federal and at state level, is in compliance with the Covenant, and about mechanisms adopted to ensure proper follow-up of the Committee's concluding observations.

B. Concluding observations on the report on Kosovo (Serbia) submitted by the United Nations Interim Administration Mission in Kosovo

85. **Kosovo (Serbia)**

(1) The Committee considered the report submitted by the United Nations Interim Administration Mission in Kosovo (UNMIK) on the human rights situation in Kosovo since June 1999 (CCPR/C/UNK/1) at its 2383rd, 2384th and 2385th meetings (CCPR/C/SR.2383, 2384 and 2385), held on 19 and 20 July 2006, and adopted the following concluding observations at its 2394th meeting (CCPR/C/SR.2394), held on 27 July 2006.

Introduction

(2) The Committee welcomes the submission by the United Nations Interim Administration Mission in Kosovo of a report on the human rights situation in Kosovo since 1999, pursuant to a request formulated by the Committee in its concluding observations on the initial report of Serbia and Montenegro (CCPR/CO/81/SEMO, para. 3) in 2004. The Committee notes with appreciation that UNMIK, on the basis of its obligations under Security Council resolution 1244 (1999) to protect and promote human rights in Kosovo, prepared its report in general conformity with the harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents, as well as the Committee's own reporting guidelines.

(3) The Committee regrets the lack of statistical data and of information on the practical implementation of the Covenant on Civil and Political Rights in Kosovo since 1999. It appreciates the dialogue with the UNMIK delegation. The Committee acknowledges with appreciation the efforts undertaken by Serbia to facilitate this dialogue and takes note of its introductory statement.

(4) The Committee notes that certain problems resulting from the role of UNMIK as an interim administration and, at the same time, a United Nations body whose staff members enjoy privileges and immunities, the gradual transfer of competencies from UNMIK to the Provisional Institutions of Self-Government (PISG), the existence of Serbian parallel court and administrative structures in some parts of Kosovo, and the uncertainty about the future status of Kosovo raise questions of accountability and impede the implementation of the Covenant in Kosovo. However, the Committee recalls general comment No. 26 (1977) on continuity of obligations which states that the rights guaranteed under the Covenant belong to the people living in the territory of a State party, and that once the people are accorded the protection of the rights under the Covenant, such protection devolves with territory and continues to belong to them, notwithstanding changes in the administration of that territory. The protection and promotion of human rights is one of the main responsibilities conferred on UNMIK under Security Council resolution 1244 (1999). Moreover, as part of the applicable law in Kosovo and

of the Constitutional Framework for the Provisional Institutions of Self-Government, the Covenant is binding on PISG. It follows that UNMIK, as well as PISG, or any future administration in Kosovo, are bound to respect and to ensure to all individuals within the territory of Kosovo and subject to their jurisdiction the rights recognized in the Covenant.

Positive aspects

(5) The Committee notes that the Covenant was made part of the applicable law in Kosovo, as defined in UNMIK Regulation 1999/1, and amended in UNMIK Regulation 1999/24, *On the Law Applicable in Kosovo*, binding on all persons undertaking public duties or holding public office in Kosovo, and that it was subsequently included in the Constitutional Framework for the Provisional Institutions of Self-Government, promulgated by UNMIK Regulation 2001/9.

(6) The Committee welcomes the efforts made by the Ombudsperson Institution in Kosovo, which was created in 2000 by UNMIK Regulation 2000/38 as an independent institution reporting to the Special Representative of the Secretary-General, until its replacement by UNMIK Regulation 2006/6 providing for the appointment of a local Ombudsperson by the Assembly of Kosovo.

(7) The Committee welcomes the promulgation on 6 July 2003 of a Provisional Criminal Code which includes chapters on crimes under international law (i.e. war crimes and crimes against humanity, as defined in the Rome Statute of the International Criminal Court, and torture, as defined in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment), on sexual offences, and on new forms of alternative punishment such as orders for community service, as well as of a Provisional Criminal Procedure Code which seeks to strengthen the judicial oversight of detention, e.g. by allowing detainees or their defence counsel to petition a judge at any time to determine the lawfulness of detention.

Principal subjects of concern and recommendations

(8) The Committee is concerned about the legal uncertainty resulting from the failure to specify which provisions of the formerly applicable law are being replaced by those UNMIK Regulations and Kosovo Assembly laws which merely state that they supersede any inconsistent laws or provisions. It is also concerned by the legal uncertainty created by the existence of a parallel court system administered by the Ministry of Justice of Serbia, in certain parts of Kosovo (arts. 2 and 4).

> **UNMIK, in cooperation with PISG, should ensure that any new law or regulation specifies which formerly applicable laws or provisions are being replaced, that laws and regulations are made accessible to the public in all official languages of Kosovo via the Official Gazette and the Internet, and that former Yugoslav laws that continue to be applicable can be consulted easily. UNMIK, in cooperation with PISG, should also designate a competent body to determine which of the former Yugoslav laws and provisions continue to be applicable and address the issue of parallel Serbian court and administrative structures in parts of Kosovo.**

(9) The Committee expresses its concern that, despite the establishment of various advisory bodies on human rights, as well as of human rights units within the Ministries, human rights concerns are often not sufficiently attended to in the programmes of UNMIK and PISG (art. 2).

UNMIK, in cooperation with PISG, should ensure that institutional structures and capacities are in place and actually utilized to fully integrate human rights in their programmes.

(10) The Committee notes with concern that UNMIK and PISG have not always extended due cooperation to the Ombudsperson Institution, especially as regards interim measures requests by the Ombudsperson. The Committee, noting that UNMIK Regulation 2006/6 limits the jurisdiction of the new Ombudsperson to be appointed by the Assembly of Kosovo to acts and omissions of PISG, expresses concern that the Human Rights Advisory Panel established under UNMIK Regulation 2006/12 to receive and examine complaints against UNMIK lacks the necessary independence and authority (art. 2 (3)).

UNMIK should ensure that full cooperation is extended to the new Ombudsperson, in particular by PISG, and should reconsider arrangements for the authoritative human rights review of acts and omissions by UNMIK.

(11) The Committee is concerned about the persistence of male-dominated attitudes within Kosovar society, low representation of women in the Ministries and central institutions of Kosovo, under-reporting of incidents of domestic violence, low numbers of convictions related to domestic violence, limited capacity of victim assistance programmes, and the absence of a comprehensive evaluation of the effectiveness of measures to combat domestic violence (arts. 2 (1), 3, 7 and 26).

UNMIK, in cooperation with PISG, should take prompt and effective measures with the goal of achieving equal representation of women in public offices and intensify training for judges, prosecutors and law enforcement officers on the application of existing laws and other instruments to combat gender discrimination and domestic violence. It should further facilitate the reporting of gender-related crimes, the obtaining of protection orders against perpetrators, enhance victim assistance programmes, and ensure effective remedies.

(12) The Committee is concerned about the continuing impunity enjoyed by some perpetrators of war crimes and crimes against humanity committed prior to the UNMIK mandate and about ethnically motivated crimes perpetrated since June 1999, including those committed in March 2004, as well as the failure to effectively investigate many of these crimes and bring perpetrators to justice. The Committee regrets the failure of UNMIK to fully cooperate with the International Tribunal for the Former Yugoslavia (arts. 2 (3), 6 and 7).

UNMIK, in cooperation with PISG, should investigate all outstanding cases of war crimes, crimes against humanity and ethnically motivated crimes committed before and after 1999, including where the perpetrators may have been Kosovo Albanians, ensure that the perpetrators of such crimes are brought to justice and that victims are adequately compensated. It should provide effective witness protection programmes, including by means of witness relocation, and extend full cooperation to International Criminal Tribunal for Yugoslavia prosecutors.

(13) The Committee, while acknowledging the work done by the Office of Missing Persons and Forensics, is concerned that some 1,713 ethnic Albanians and 683 non-Albanians, including Serbs, Roma, Ashkali and Egyptians, continued to be reported as missing as of May 2006, that low priority has been given to investigations of disappearances and abductions by the Missing Persons Unit of the UNMIK police and, since 2003, by the Central Criminal Investigative Unit, and that in closed cases of disappearances and abductions perpetrators were rarely, if ever, prosecuted and brought to justice (arts. 2 (3), 6 and 7).

UNMIK, in cooperation with PISG, should effectively investigate all outstanding cases of disappearances and abductions and bring perpetrators to justice. It should ensure that the relatives of disappeared and abducted persons have access to information about the fate of the victims, as well as to adequate compensation.

(14) The Committee, while acknowledging the progress made in the past few months, notes with concern that Roma, Ashkali and Egyptian internally displaced persons (IDPs) living in camps in lead-polluted areas in north Mitrovica since 1999 have been relocated only recently, although the negative effects on the health of the communities concerned were known since mid-2004. The Committee is also concerned about the limited extent of consultation with the IDP communities prior to their relocation, the proximity of the temporary relocation camp Osterode to one of the contaminated sites, and the failure to provide medical follow-up treatment to the affected persons (art. 6).

UNMIK should ensure that the remaining inhabitants of lead-contaminated IDP camps, as well as those temporarily transferred to the Osterode camp, are relocated to environmentally safe areas, following their consultation in accordance with the Guiding Principles on Internal Displacement (E/CN.4/1998/53/Add.2), and that the victims of lead contamination are provided with adequate medical treatment and access to effective remedies to seek and obtain compensation for any damage caused to their health.

(15) The Committee is concerned about allegations of excessive use of force by UNMIK, the Kosovo Force (KFOR) and the Kosovo Police Service (KPS) and the reported failure to investigate, prosecute and convict many of those responsible for such acts (arts. 2 (3), 6 and 7).

UNMIK, in cooperation with PISG and KFOR, should ensure that complaints about excessive use of force by police or military personnel in Kosovo are investigated by a competent body and that victims receive adequate compensation. UNMIK and KFOR should seek the cooperation of the countries of origin of those personnel to ensure that perpetrators are brought to justice.

(16) The Committee is concerned about the incidence of trafficking in human beings, especially women and children, and about reports that traffickers are rarely prosecuted and convicted. It is also concerned that victims of trafficking are often not informed of their rights and denied access to a lawyer or interpreter upon arrest, and that the Action Plan to Combat Trafficking in Human Beings fails to incorporate adequate measures for victim assistance and support (art. 8).

UNMIK, in cooperation with PISG, should ensure the effective investigation and prosecution of persons involved in trafficking, including UNMIK and KFOR personnel. It should also ensure protection as well as adequate access by victims to lawyers and interpreters, health care and counselling, and to other forms of assistance and support, and review its Action Plan to Combat Trafficking in the light of the Covenant.

(17) The Committee notes with concern that criminal suspects have been arrested solely under a detention directive of the Commander of KFOR and under executive orders of the Special Representative of the Secretary-General without being brought before a judge promptly and without access to an independent judicial body to determine the lawfulness of their detention (arts. 9 and 14).

UNMIK should revoke the Regulation conferring power on the Special Representative of the Secretary-General to detain and expel individuals, seek the cessation of detentions under Commander of KFOR Detention Directive 42, and ensure that all persons arrested under the discretionary powers of UNMIK police or under a court order are informed of the reasons for their arrest and of any charges against them, brought promptly before a judicial authority, granted access to a lawyer and to proceedings before a court to determine the lawfulness of their detention, and are tried without undue delay.

(18) The Committee is concerned about the very low number of minority returns and the inability of displaced persons to recover their real property, including agricultural lands (art. 12).

UNMIK, in cooperation with PISG, should intensify efforts to ensure safe conditions for sustainable returns of displaced persons, in particular those belonging to minorities. In particular, it should ensure that they may recover their property, receive compensation for damage done and benefit from rental schemes for property temporarily administered by the Kosovo Property Agency.

(19) The Committee is concerned about the restricted freedom of movement and access to essential services, such as judicial remedies, health care and education, and personal documents, of minority communities living in microenclaves (art. 12).

UNMIK, in cooperation with PISG, should ensure freedom of movement and access to essential services to minority communities, including those living in microenclaves.

(20) The Committee is concerned about the absence of adequate guarantees for the independence of international judges and prosecutors. It is concerned about the low remuneration of local judges and prosecutors, the low representation of ethnic minorities in the judiciary, the excessive length of civil court proceedings and court backlogs and the frequent failure to enforce judgements (art. 14).

UNMIK, in cooperation with PISG as required, should establish independent procedures for the recruitment, appointment and discipline of international judges and prosecutors, ensure adequate terms and conditions for local judges and prosecutors whereby they are shielded from corruption, increase the representation of ethnic minorities in the judiciary, assign additional judges to courts with case backlogs and ensure enforcement of judgements without delay.

(21) The Committee notes with concern that members of minority communities have only limited access to the conduct of public affairs, as well as to public service, and that discrimination against minorities, including the Roma, is widespread in Kosovo (arts. 2, 25 and 26).

UNMIK should ensure that PISG increase the employment of members of minorities at the central and municipal levels of the Kosovo Civil Service, guarantee their equal enjoyment of the rights protected under the Covenant, and ensure the effective participation of all minorities in the conduct of public affairs, including in the ongoing negotiations on the future status of Kosovo.

(22) The Committee is concerned about the selective use of certain official languages in official dealings and the lack of opportunities for minority children, in particular Roma children, to receive instruction in, and of, their languages (art. 27).

UNMIK should ensure that PISG respect the right of minority communities to use any official language of Kosovo in correspondence with public authorities, that all official documents are translated into these languages, that minority children have adequate opportunities to receive instruction in, and of, their language, and that sufficient funds are allocated and teachers trained for that purpose.

(23) The Committee requests that the text of the present report and these concluding observations be made public and broadly disseminated throughout Kosovo, and that the next periodic report be made available by relevant authorities to civil society and to non-governmental organizations operating in Kosovo.

(24) In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, UNMIK, in cooperation with PISG, should submit within six months information on the follow-up given to the Committee's recommendations in paragraphs 12, 13 and 18.

CHAPTER V. CONSIDERATION OF COMMUNICATIONS UNDER THE OPTIONAL PROTOCOL

86. Individuals who claim that any of their rights under the International Covenant on Civil and Political Rights have been violated by a State party, and who have exhausted all available domestic remedies, may submit written communications to the Human Rights Committee for consideration under the Optional Protocol. No communication can be considered unless it concerns a State party to the Covenant that has recognized the competence of the Committee by becoming a party to the Optional Protocol. Of the 156 States that have ratified, acceded or succeeded to the Covenant, 105 have accepted the Committee's competence to deal with individual complaints by becoming parties to the Optional Protocol (see annex I, section B).

87. Consideration of communications under the Optional Protocol is confidential and takes place in closed meetings (article 5, paragraph 3, of the Optional Protocol). Under rule 102 of the Committee's rules of procedure, all working documents issued for the Committee are confidential unless the Committee decides otherwise. However, the author of a communication and the State party concerned may make public any submissions or information bearing on the proceedings, unless the Committee has requested the parties to respect confidentiality. The Committee's final decisions (Views, decisions declaring a communication inadmissible, decisions to discontinue a communication) are made public; the names of the authors are disclosed unless the Committee decides otherwise.

88. Communications addressed to the Human Rights Committee are processed by the Petitions Unit of OHCHR. This Unit services also the communications procedures under article 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination.

A. Progress of work

89. The Committee started its work under the Optional Protocol at its second session, in 1977. Since then, 1,490 communications concerning 81 States parties have been registered for consideration by the Committee, including 71 registered during the period covered by the present report. The status of the 1,490 communications registered is as follows:

(a) Concluded by Views under article 5, paragraph 4, of the Optional Protocol: 547, including 429 in which violations of the Covenant were found;

(b) Declared inadmissible: 449;

(c) Discontinued or withdrawn: 218;

(d) Not yet concluded: 276.

90. In addition, during the period under review the Petitions Unit received several hundred communications in respect of which complainants were advised that further information would be needed before their communications could be registered for consideration by the Committee. Thousands of complainants were informed that their cases would not be dealt with by the

Committee, for example, because they fell clearly outside the scope of application of the Covenant or of the Optional Protocol. A record of this correspondence is kept in the Secretariat and reflected in the Secretariat's database.

91. During the eighty-fifth to eighty-seventh sessions, the Committee concluded consideration of 48 cases by adopting Views thereon. These are cases Nos. 812/1998 (*Persaud v. Guyana*), 862/1999 (*Hussain & Hussain v. Guyana*), 889/1999 (*Zheikov v. Russian Federation*), 907/2000 (*Siragev v. Uzbekistan*), 913/2000 (*Chan v. Guyana*), 915/2000 (*Ruzmetov v. Uzbekistan*), 959/2000 (*Bazarov v. Uzbekistan*), 985/2001 (*Aliboev v. Tajikistan*), 992/2001 (*Bousroual v. Algeria*), 1009/2001 (*Shchetko v. Belarus*), 1010/2001 (*Lassaad v. Belgium*), 1016/2001 (*Hinostroza v. Peru*), 1022/2001 (*Velichkin v. Belarus*), 1036/2001 (*Faure v. Australia*), 1042/2002 (*Boimurudov v. Tajikistan*), 1044/2002 (*Nazriev v. Tajikistan*), 1050/2002 (*D. and E. v. Australia*), 1054/2002 (*Kriz v. Czech Republic*), 1058/2002 (*Vargas v. Peru*), 1070/2002 (*Kouidis v. Greece*), 1085/2002 (*Taright v. Algeria*), 1100/2002 (*Bandazhewsky v. Belarus*), 1123/2002 (*Correia de Matos v. Portugal*), 1125/2002 (*Quispe v. Peru*), 1126/2002 (*Carranza v. Peru*), 1132/2002 (*Chisanga v. Zambia*), 1152 & 1190/2003 (*Ndong et al. & Mic Abogo v. Equatorial Guinea*), 1153/2003 (*K.N.L.H. v. Peru*), 1156/2003 (*Pérez Escolar v. Spain*), 1157/2003 (*Coleman v. Australia*), 1158/2003 (*Blaga v. Romania*), 1159/2003 (*Sankara v. Burkina Faso*), 1164/2003 (*Castell Ruiz et al. v. Spain*), 1177/2003 (*Wenga and Shandwe v. Democratic Republic of Congo*), 1180/2003 (*Bodrozic v. Serbia & Montenegro*), 1184/2003 (*Brough v. Australia*), 1196/2003 (*Boucherf v. Algeria*), 1208/2003 (*Kurbonov v. Tajikistan*), 1211/2003 (*Oliveró v. Spain*), 1218/2003 (*Platonov v. Russian Federation*), 1238/2003 (*Veerman v. Netherlands*), 1249/2004 (*Joseph et al. v. Sri Lanka*), 1250/2004 (*Lalith Rajapakse v. Sri Lanka*), 1297/2004 (*Medjnoune v. Algeria*), 1298/2004 (*Becerra v. Colombia*), 1314/2004 (*O'Neill and Quinn v. Ireland*), and 1421/2005 (*Larrañaga v. The Philippines*). The text of these Views is reproduced in annex V (vol. II).

92. The Committee also concluded consideration of 41 cases by declaring them inadmissible. These are cases Nos. 993-995/2001 (*Crippa, Masson & Zimmermann v. France*), 1012/2001 (*Burgess v. Australia*), 1030/2001 (*Dimitrov v. Bulgaria*), 1034-1035/2001 (*Soltes v. Czech Republic & Slovakia*), 1056/2002 (*Khatcharian v. Armenia*), 1059/2002 (*Carvallo v. Spain*), 1062/2002 (*Smidek v. Czech Republic*), 1078/2002 (*Yurich v. Chile*), 1093/2002 (*Rodríguez José v. Spain*), 1094/2002 (*Herrera v. Spain*), 1102/2002 (*Semey v. Spain*), 1103/2002 (*Castro v. Colombia*), 1120/2002 (*Arboleda v. Colombia*), 1175/2003 (*Lim Soo Ja v. Australia*), 1183/2003 (*Martínez Puertas v. Spain*), 1212/2003 (*Lanzarote v. Spain*), 1228/2003 (*Lemercier v. France*), 1229/2003 (*Dumont de Chassart v. Italy*), 1279/2004 (*Faa'aliga v. New Zealand*), 1283/2004 (*Calle Sevigny v. France*), 1289/2004 (*Farangis v. Netherlands*), 1293/2004 (*De Dios v. Spain*), 1302/2004 (*Khan v. Canada*), 1313/2004 (*Castano v. Spain*), 1315/2004 (*Singh v. Canada*), 1323/2004 (*Lozano v. Spain*), 1331/2004 (*Dahanayake et al. v. Sri Lanka*), 1374/2005 (*Kurbogaj v. Spain*), 1387/2005 (*Oubiña v. Spain*), 1396/2005 (*Rivera Fernández v. Spain*), 1400/2005 (*Beydon v. France*), 1403/2005 (*Gilberg v. Germany*), 1417/2005 (*Ounnane v. Belgium*), 1420/2005 (*Linder v. Finland*), 1434/2005 (*Fillacier v. France*), 1440/2005 (*Aalbersberg et al. v. The Netherlands*), 1441/2005 (*Garcia v. Spain*), and 1444/2005 (*Zaragoza Rovira v. Spain*). The text of these decisions is reproduced in annex VI (vol. II).

93. Under the Committee's rules of procedure, the Committee will normally decide on the admissibility and merits of a communication together. Only in exceptional circumstances will the Committee request a State party to address admissibility only. A State party which has

received a request for information on admissibility and merits may, within two months, object to admissibility and apply for separate consideration of admissibility. Such a request, however, will not release the State party from the requirement to submit information on the merits within six months, unless the Committee, its Working Group on Communications or its designated special rapporteur decides to extend the time for submission of information on the merits until after the Committee has ruled on admissibility.

94. During the period under review, eight communications were declared admissible separately, as above, for examination on the merits. Decisions declaring communications admissible are not normally published by the Committee. Procedural decisions were adopted in a number of pending cases (under article 4 of the Optional Protocol or under rules 92 and 97 of the Committee's rules of procedure).

95. The Committee decided to discontinue the consideration of 18 communications following withdrawal by the author (cases Nos. 1112/2002, *Serrano v. The Philippines*; 1131/2002, *Sisulu Hamitelo v. Zambia*; 1197/2003, *Pangilinan v. The Philippines*; 1237/2003, *Osman v. Canada*; 1253/2004, *Paparzadeh v. Australia*; 1254/2004, *Mandavi v. Australia*; 1258/2004, *Darvishzadeh v. Australia*; 1262/2004, *Mojahed v. Australia*; 1265/2004, *Bahambari v. Australia*; 1269/2004, *Ghahremany v. Australia*; 1271/2004, *Sobhani v. Australia*; 1317/2004, *Hossein v. Australia*; 1318/2004, *Tariq v. Australia*; 1319/2004, *Hussain v. Australia*; 1380/2005, *Cuni et al. v. Sweden*; 1395/2005, *Mastipour v. Australia*; 1415/2005, *Peña Alvárez v. Spain*; and 1430/2005, *Yeboah v. Australia*) and to discontinue consideration of nine communications because counsel lost contact with the author (cases Nos. 1221/2003, *Abbaskhujayeva et al. v. Uzbekistan*; and 1340/2005, *O'Donoghue v. Australia*); or because the author and/or counsel failed to respond to the Committee despite repeated reminders (cases Nos. 1027/2001, *Mavlanova v. Uzbekistan*; 1028/2001, *Ochiolva v. Uzbekistan*; 1029/2001, *Nurmatova v. Uzbekistan*; 1083/2002, *Waldman v. Canada*; 1116/2002, *Keith v. Guyana*; 1135/2002, *Ridniuk v. Belarus*; and 1194/2003, *Thamsey v. Philippines*).

96. In a number of cases decided during the period under review, the Committee noted that the State party in question had failed to cooperate in the examination of the author's allegations. The Committee regretted that situation and recalled that it is implicit in the Optional Protocol that States parties make available to the Committee all information at their disposal. In the absence of a reply, due weight is given to the author's allegations, to the extent that they have been properly substantiated.

B. The Committee's caseload under the Optional Protocol

97. As the Committee has stated in previous reports, the increasing number of States parties to the Optional Protocol and better public awareness of the procedure have led to a growth in the number of communications submitted to the Committee. The table below sets out the pattern of the Committee's work on communications over the last eight calendar years to 31 December 2005.

Communications dealt with, 1999-2006

Year	New cases registered	Cases concluded[a]	Pending cases at 31 December
2006[b]	43	76	276
2005	106	96	309
2004	100	78	299
2003	88	89	277
2002	107	51	278
2001	81	41	222
2000	58	43	182
1999	59	55	167

[a] Total number of all cases decided (by the adoption of Views, inadmissibility decisions and cases discontinued).

[b] As of 31 July 2006.

C. Approaches to considering communications under the Optional Protocol

1. Special Rapporteur on new communications

98. In March 1989, the Committee decided to designate a special rapporteur authorized to process new communications as they were received, i.e. between sessions of the Committee. At the Committee's eighty-second session, in October 2004, Mr. Kälin was designated as the new Special Rapporteur. In the period covered by the present report, the Special Rapporteur transmitted 71 new communications to the States parties concerned under rule 97 of the Committee's rules of procedure, requesting information or observations relevant to the questions of admissibility and merits. In six cases, the Special Rapporteur issued requests for interim measures of protection pursuant to rule 92 of the Committee's rules of procedure. The competence of the Special Rapporteur to issue and, if necessary, to withdraw, requests for interim measures under rule 92 of the rules of procedure is described in the annual report for 1997.[1]

2. Competence of the Working Group on Communications

99. In July 1989, the Committee decided to authorize the Working Group on Communications to adopt decisions declaring communications admissible when all members of the Group so agreed. Failing such agreement, the Working Group refers the matter to the Committee. It also does so whenever it believes that the Committee itself should decide the question of admissibility. During the period under review, eight communications were declared admissible by the Working Group on Communications.

100. The Working Group also makes recommendations to the Committee declaring communications inadmissible. At its eighty-third session the Committee authorized the Working Group to adopt decisions declaring communications inadmissible if all members so agreed. At its eighty-fourth session, the Committee introduced the following new rule 93 (3) in its rules of procedure: "A working group established under rule 95, paragraph 1, of these rules of procedure may decide to declare a communication inadmissible, when it is composed of at least

five members and all the members so agree. The decision will be transmitted to the Committee plenary, which may confirm it and adopt it without further discussion. If any Committee member requests a plenary discussion, the plenary will examine the communication and take a decision." The Committee's experience with the new procedure has been positive during the reporting period.

101. At its fifty-fifth session, in October 1995, the Committee decided that each communication would be entrusted to one member of the Committee, who would act as rapporteur for it in the Working Group and in the plenary Committee. The role of the rapporteur is described in the report for 1997.[2]

D. Individual opinions

102. In its work under the Optional Protocol, the Committee seeks to adopt decisions by consensus. However, pursuant to rule 104 of the Committee's rules of procedure, members can add their individual (concurring or dissenting) opinions to the Committee's Views. Under this rule, members can also append their individual opinions to the Committee's decisions declaring communications admissible or inadmissible.

103. During the period under review, individual opinions were appended to the Committee's Views in cases Nos. 812/1998 (*Persaud v. Guyana*), 913/2000 (*Chan v. Guyana*), 1016/2001 (*Hinostroza v. Peru*), 1022/2001 (*Velichkin v. Belarus*), 1036/2001 (*Faure v. Australia*), 1123/2002 (*Correia de Matos v. Portugal*), 1152 & 1190/2003 (*Ndong et al. & Mic Abogo v. Equatorial Guinea*), 1153/2003 (*K.N.L.H. v. Peru*), 1157/2003 (*Coleman v. Australia*), 1180/2003 (*Bodrozic v. Serbia & Montenegro*), and 1421/2005 (*Larrañaga v. The Philippines*). Individual opinions were appended to the decision declaring cases Nos. 1229/2003 (*Dumont de Chassart v. Italy*) and 1331/2004 (*Dahanayake et al. v. Sri Lanka*) inadmissible.

E. Issues considered by the Committee

104. A review of the Committee's work under the Optional Protocol from its second session in 1977 to its eighty-fourth session in July 2005 can be found in the Committee's annual reports for 1984 to 2005, which contain summaries of the procedural and substantive issues considered by the Committee and of the decisions taken. The full texts of the Views adopted by the Committee and of its decisions declaring communications inadmissible under the Optional Protocol are reproduced in annexes to the Committee's annual reports to the General Assembly. The texts of the Views and decisions are also available on the treaty body database of the OHCHR website (www.ohchr.org).

105. Seven volumes of "Selected decisions of the Human Rights Committee under the Optional Protocol", from the second to the sixteenth sessions (1977-1982), from the seventeenth to the thirty-second sessions (1982-1988), from the thirty-third to the thirty-ninth sessions (1980-1990), from the fortieth to the forty-sixth sessions (1990-1992), from the forty-seventh to the fifty-fifth sessions (1993-1995), from the fifty-sixth to the sixty-fifth sessions (March 1996 to April 1999) and from the sixty-sixth to the seventy-fourth sessions (July 1999 to March 2002) have been published. As domestic courts increasingly apply the standards contained in the International Covenant on Civil and Political Rights, it is imperative that the Committee's decisions be available on a worldwide basis in a properly compiled and indexed volume.

106. The following summary reflects developments concerning issues considered during the period covered by the present report. In order to reduce the length of the report, only the most significant decisions have been covered.

1. Procedural issues

(a) Inadmissibility *ratione temporis* (Optional Protocol, art. 1)

107. Under article 1 of the Optional Protocol, the Committee may only receive communications concerning alleged violations of the Covenant which occurred after the entry into force of the Covenant and the Optional Protocol for the State party concerned, unless continuing effects exist which in themselves constitute a violation of a Covenant right. The Committee thus declared inadmissible some of the claims contained in communication No. 1070/2002 (*Kouidis v. Greece*). However, with regard to the same communication, the Committee noted that although the author was convicted on appeal on 4 November 1996, i.e. before the entry into force of the Optional Protocol for the State party, the judgement of the Supreme Court upholding the Appeal Court judgement was issued on 3 April 1998, after the Optional Protocol came into force. The Committee reiterated its jurisprudence that a second or final instance judgement, confirming a conviction, constitutes an affirmation of the conduct of the trial. As some of the author's claims referred to the conduct of the trial, which continued after the entry into force of the Optional Protocol for the State party, the Committee concluded that it was not precluded *ratione temporis* from considering the communication insofar as it raised issues relating to the trial. The Committee applied the same jurisprudence in case No. 1158/2003 (*Blaga v. Romania*).

108. In case No. 1078/2002 (*Yurich v. Chile*), the Committee noted that the facts complained of by the author in connection with her daughter's disappearance occurred prior to the entry into force not only of the Optional Protocol but also of the Covenant. Furthermore, upon the submission of the communication, the State party, far from refusing to acknowledge the detention, admitted and assumed responsibility for it. In addition to that, the author made no reference to any action of the State party after the date on which the Optional Protocol entered into force for the State party, that would constitute a confirmation of the enforced disappearance. Accordingly, the Committee considered that even if the Chilean courts, like the Committee, regarded enforced disappearance as a continuing offence, the State party's declaration *ratione temporis* was also relevant in the case. As a result, the Committee found the communication inadmissible *ratione temporis*.

(b) Inadmissibility for lack of standing (Optional Protocol, art. 1)

109. In case No. 915/2000 (*Ruzmetov v. Uzbekistan*), the Committee noted that the author had not provided any proof that she was authorized to act on behalf of her imprisoned husband, despite the fact that by the time of consideration of the case by the Committee, he should have already served his sentence. Neither had she substantiated why it was impossible for the victim to submit a communication on his own behalf. In the circumstances of the case and in the absence of a power of attorney or other documented proof that the author was authorized to act on his behalf, the Committee concluded that as far as it related to her husband, the author had no standing under article 1 of the Optional Protocol.

110. Other claims declared inadmissible for lack of standing before the Committee, during the period under review, relate to case No. 1012/2001 (*Burgess v. Australia*)

(c) Inadmissibility for lack of victim status (Optional Protocol, art. 1)

111. In case No. 1331/2004 (*Dahanayake et al. v. Sri Lanka*), concerning the expropriation of the authors' property to allow for the building of an expressway without conducting the required preliminary impact assessments, the Committee noted that the treatment received by the authors was found by the Supreme Court to be incompatible with article 12 (1) of the Constitution of Sri Lanka which is the equivalent of article 26 of the Covenant. It also noted that the authors had been afforded a remedy for that specific violation, in addition to the regular compensation they would receive for the loss of their property, and which the Committee is not in a position to consider inadequate. Consequently, it concluded that the authors could no longer be considered to be victims within the meaning of article 1 of the Optional Protocol.

112. In case No. 1400/2005 (*Beydon et al. v. France*), the Committee noted the authors' claim that in the context of domestic proceedings, they had become victims of violation by the State party of their rights under article 2, paragraph 3 (c), in conjunction with article 14, paragraph 1, of the Covenant. The Committee recalled that for a person to claim to be a victim of a violation of a right protected by the Covenant, he or she must show either that an act or an omission of a State party has already adversely affected his or her enjoyment of such right, or that such an effect is imminent, for example on the basis of existing law and/or judicial or administrative decision or practice. It noted that it was not the authors, but an association with legal personality under French law, that was party to the domestic proceedings. Thus, the Committee found that the authors were not victims, within the meaning of article 1 of the Optional Protocol, of the alleged violation.

113. In case No. 1440/2005 (*Aalbersberg et al. v. The Netherlands*), the Committee noted the authors' claim that the State party's stance on the use of nuclear weapons presented them with an existing or imminent violation of their right to life, specific to each of them. It found that the arguments presented by the authors did not demonstrate that they were victims whose right to life is violated or under any imminent prospect of being violated. It therefore concluded that the authors were not victims, within the meaning of article 1 of the Optional Protocol, of the alleged violation.

(d) Claims not substantiated (Optional Protocol, art. 2)

114. Article 2 of the Optional Protocol provides that "individuals who claim that any of their rights enumerated in the Covenant have been violated and who have exhausted all available domestic remedies may submit a written communication to the Committee for consideration".

115. Although an author does not need to prove the alleged violation at the admissibility stage, he or she must submit sufficient material substantiating his/her allegation for purposes of admissibility. A "claim" is, therefore, not just an allegation, but an allegation supported by substantiating material. In cases where the Committee finds that the author has failed to substantiate a claim for purposes of admissibility, the Committee has held the communication inadmissible, in accordance with rule 96 (b) of its rules of procedure.

116. In case No. 1315/2004 (*Singh v. Canada*), the Committee recalled that States parties had the obligation not to expose individuals to a real risk of being killed or subjected to torture or cruel, inhuman or degrading treatment or punishment upon return to another country by way of their extradition, expulsion or refoulement. Accordingly, the Committee had to decide whether there were substantial grounds for believing that, as a necessary and foreseeable consequence of his removal to India, the author would be subjected to treatment prohibited by articles 6 and 7. The Committee noted that the Refugee Division of the Immigration and Refugee Board, after thorough examination, rejected the asylum application of the author on the basis of lack of credibility, the implausibility of his testimony and supporting evidence and that the rejection of his Pre-Removal Risk Assessment application was based on similar grounds. It further noted that in both cases applications for leave to appeal were rejected by the Federal Court. The author had not shown sufficiently why these decisions were contrary to the standard set out above, nor had he adduced sufficient evidence in support of a claim to the effect that he would be exposed to a real and imminent risk of violations of articles 6 and 7 of the Covenant if deported to India. The Committee accordingly concluded that his claim was inadmissible as insufficiently substantiated.

117. In case No. 1400/2005 (*Beydon et al. v. France*), the Committee noted the authors' claim under article 25 (a), that they were deprived, by the State party, of their right and opportunity to take part in the conduct of public affairs relating to the negotiations, and subsequent adhesion of France to the Statute of the International Criminal Court accompanied by a declaration under article 124 limiting the State party's responsibility. The Committee recalled that citizens also take part in the conduct of public affairs by exerting influence through public debate and dialogue with their representatives or through their capacity to organize themselves. In the present case, the authors had participated in the public debate in France on the issue of its adhesion to the Statute and the article 124 declaration; they acted through elected representatives and through their association's actions. In the circumstances, the Committee considered that the authors had failed to substantiate, for purposes of admissibility, that their right to take part in the conduct of public affairs had been violated.

118. Other claims were declared inadmissible for lack of substantiation in cases Nos. 907/2000 (*Sirageva v. Uzbekistan*), 913/2000 (*Chan v. Guyana*), 959/2000 (*Bazarov v. Uzbekistan*), 1042/2001 (*Boimurodov v. Tajikistan*), 1044/2002 (*Shukurova v. Tajikistan*), 1184/2003 (*Brough v. Australia*), 1208/2003 (*Kurbonov v. Tajikistan*), 1218/2003 (*Platonov v. Russian Federation*), 1249/2004 (*Joseph et al. v. Sri Lanka*), 993-995/2001 (*Crippa et al. v. France*), 1034-1035/2001 (*Soltes v. the Czech Republic and the Slovak Republic*), 1056/2002 (*Khachatrian v. Armenia*), 1059/2002 (*Carvallo v. Spain*), 1062/2002 (*Šmídek v. Czech Republic*), 1094/2002 (*Herrera v. Spain*), 1132/2002 (*Chisanga v. Zambia*), 1153/2003 (*K.N.L.H. v. Peru*), 1229/2003 (*Dumont de Chassart v. Italy*), 1302/2004 (*Khan v. Canada*), 1403/2005 (*Gilberg v. Germany*), and 1417/2005 (*J.O. et al. v. Belgium*).

(e) Competence of the Committee with respect to the evaluation of facts and evidence (Optional Protocol, art. 2)

119. A specific form of lack of substantiation is represented by cases where the author invites the Committee to re-evaluate issues of fact and evidence addressed by domestic courts. The Committee has repeatedly recalled its jurisprudence that it is not for it to substitute its views for the judgement of the domestic courts on the evaluation of facts and evidence in a case, unless the evaluation is manifestly arbitrary or amounts to a denial of justice. If a particular conclusion of

fact is one that is reasonably available to a trier of fact on the basis of the evidence before it, a showing of manifest arbitrariness or a denial of justice will not have been made out. Claims involving the re-evaluation of facts and evidence have thus been declared inadmissible under article 2 of the Optional Protocol, including cases Nos. 907/2000 (*Sirageva v. Uzbekistan*), 985/2001 (*Aliboeva v. Tajikistan*), 1044/2002 (*Shukurova v. Tajikistan*), 1062/2002 (*Šmídek v. Czech Republic*), 1132/2002 (*Chisanga v. Zambia*), 1218/2003 (*Platonov v. Russian Federation*), and 1056/2002 (*Khachatrian v. Armenia*),

120. In case 862/1999 (*Hussain et al. v. Guyana*), the Committee held that it is not for it to review specific instructions to the jury by the trial judge, unless it can be ascertained that the instructions to the jury were clearly arbitrary or amounted to a denial of justice. On the material before it, the Committee could not establish that the trial judge's instructions or the conduct of the trial suffered from such deficiencies as to raise issues under the provisions of the Covenant. This part of the communication was therefore insufficiently substantiated and declared inadmissible under article 2 of the Optional Protocol.

(f) Inadmissibility *ratione materiae* (Optional Protocol, art. 3)

121. In case No. 1030/2001 (*Dimitrov v. Bulgaria*), concerning the refusal by an administrative body to approve the author's nomination for a professorship, the Committee noted that the author had not identified which rights in a suit at law he claimed. His application was assessed in accordance with the relevant procedures laid down under Bulgarian law, namely, the Scientific Degrees and Scientific Titles Act and the highest administrative body vested with discretion to determine the merits of the application rejected it. There is no information before the Committee to show that the author had any right to have the title of professor conferred on him or that the Presidium was under any obligation to endorse his candidature. In these circumstances, and in the absence of any other information as to the effect of the Presidium's decision on the author, the Committee concluded that the refusal of the Presidium to confer the title of professor on him did not constitute a determination of any of his rights in a suit at law. Consequently, the claim made by the author under article 14, paragraph 1, was considered inadmissible *ratione materiae,* under article 3 of the Optional Protocol.

122. In case No. 1323/2004 (*Lozano et al. v. Spain*), concerning the right to appeal a criminal conviction to a higher court, the Committee noted that the Court of Appeal reviewed and confirmed the author's criminal conviction, which was not imposed at the appellate level but at first instance level. The award of compensation for damages did not amount to an aggravation of the criminal conviction but was of a civil nature. It therefore fell outside the scope of article 14, paragraph 5 of the Covenant. Accordingly, the Committee found that claim incompatible *ratione materiae* with such provision and declared it inadmissible under article 3 of the Optional Protocol.

123. In case No. 1417/2005 (*J.O. et al. v. Belgium*), the Committee noted that the conduct of a privately hired defence lawyer in civil proceedings was not protected as such by any provision of the Covenant. Article 14, paragraph 3 (d) obliged States parties to provide legal aid only within the framework of criminal proceedings. The Committee therefore concluded that this claim was incompatible *ratione materiae* with the provisions of the Covenant, under article 3 of the Optional Protocol.

124. Claims were also declared inadmissible *ratione materiae* in cases Nos. 993-995/2001 (*Crippa et al. v. France*), 1396/2005 (*Rivera v. Spain*), 1420/2005 (*Linder v. Finland*).

(g) Inadmissibility because of submission to another procedure of international investigation or settlement (Optional Protocol, art. 5, para. 2 (a))

125. Pursuant to article 5, paragraph 2 (a), of the Optional Protocol, the Committee shall ascertain that the same matter is not being examined under another procedure of international investigation or settlement. Upon becoming parties to the Optional Protocol, some States have made a reservation to preclude the Committee's competence if the same matter has already been examined under another procedure.

126. In case No. 1100/2002 (*Bandajevsky v. Belarus*), the Committee considered that the complaints procedure before the Executive Board's Committee on Conventions and Recommendations of UNESCO is extra-conventional, without any obligation of the State party concerned to cooperate with it; that no conclusion of violation or non-violation of specific rights by a given State is made in the examination of individual cases; and that such an examination ultimately does not lead to any authoritative determination of the merits of a particular case. Accordingly, the Committee concluded that the UNESCO complaints procedure does not constitute another "procedure of international investigation or settlement" in the sense of article 5, paragraph 2 (a), of the Optional Protocol.

127. In case No. 1331/2004 (*Dahanayake et al. v. Sri Lanka*), the Committee noted that the authors' complaints to the Asian Development Bank were not based on allegations of any violation of Covenant rights, and thus considered that the procedure before the Asian Development Bank did not amount to another procedure of investigation or settlement within the meaning of article 5, paragraph 2 (a), of the Optional Protocol.

128. In case No. 1396/2005 (*Rivera v. Spain*), the Committee recalled its jurisprudence that when the European Court based a declaration of inadmissibility not solely on procedural grounds but on reasons that include a certain consideration of the merits of the case, then the same matter should be deemed to have been "examined" within the meaning of the respective reservations to article 5, paragraph 2 (a). The European Court should be considered to have gone beyond the examination of purely procedural admissibility criteria when declaring the application inadmissible because it does "not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols". It therefore considered that part of the communication inadmissible under article 5, paragraph 2 (a) and the reservation of Spain to the said provision.

129. Claims were also declared inadmissible because of submission to another procedure of international investigation or settlement in cases Nos. 993-995/2001 (*Crippa et al. v. France*).

(h) The requirement of exhaustion of domestic remedies (Optional Protocol, art. 5, para. 2 (b))

130. Pursuant to article 5, paragraph 2 (b), of the Optional Protocol, the Committee shall not consider any communication unless it has ascertained that the author has exhausted all available domestic remedies. However, it is the Committee's constant jurisprudence that the rule of exhaustion applies only to the extent that those remedies are effective and available. The State

party is required to give details of the remedies which it submitted had been made available to the author in the circumstances of his case, together with evidence that there would be a reasonable prospect that such remedies would be effective.

131. In case No. 1058/2002 (*Vargas v. Peru*), the Committee noted that the author had not explicitly mentioned having filed an appeal with regard to his allegations regarding torture and poor conditions of detention. However, the Committee observed that such allegations were consistent with the practice that, in the Committee's experience, was common in respect of persons detained on suspicion of being linked to the terrorist group "Sendero Luminoso", and against which there existed no effective remedies. Taking this into consideration, and given the absence of a reply from the State party, the Committee considered that part of the communication to be admissible.

132. In case No. 1126/2002 (*Carranza v. Peru*), the Committee took note of the State party's assertion that the case was pending in the National Terrorism Division in the context of new criminal proceedings instituted in accordance with the new anti-terrorist legislation, and that, consequently, domestic remedies had not been exhausted. The Committee was pleased to observe the amendment of several procedural and penal rules of anti-terrorist legislation, particularly those that permit the annulment of proceedings for the offence of terrorism conducted before judges and prosecutors whose identity had been concealed and establish that criminal proceedings for the offence of terrorism will be conducted in accordance with the ordinary procedures for which the Code of Criminal Procedure provides. With reference, however, to article 5, paragraph 2 (b), of the Optional Protocol, the Committee observed that the author was arrested on 16 February 1993 and subsequently tried and sentenced under Decree-Law No. 25475 of 5 May 1992, and that she filed all the appeals permitted under that legislation against her sentence, including a petition for annulment to the Supreme Court. All of this was prior to her submitting her communication to the Committee. The fact that the legislation that was applied to the author and on which her communication was based was declared null and void several years later could not be considered to her disadvantage. In the circumstances, it could not be claimed that the author should wait for the Peruvian courts to take a new decision before the Committee could consider the case under the Optional Protocol. Further, the Committee observed that the application of remedies before the Peruvian courts was initiated in 1993 and had still not been concluded. Accordingly, the case was considered admissible. The Committee came to a similar conclusion in case No. 1125/2002 (*Quispe v. Peru*).

133. In case No. 1132/2002 (*Chisanga v. Zambia*), the Committee reiterated its jurisprudence that presidential pardons are an extraordinary remedy and as such do not constitute an effective remedy.

134. In case No. 1153/2003 (*K.N.L.H. v. Peru*), concerning the refusal to allow a therapeutic abortion, the Committee took note of the author's arguments to the effect that in Peru there is no administrative remedy which would enable a pregnancy to be terminated on therapeutic grounds, nor any judicial remedy functioning with the speed and efficiency required to enable a woman to require the authorities to guarantee her right to a lawful abortion within the limited period, by virtue of the special circumstances obtaining in such cases. The Committee recalled its jurisprudence to the effect that a remedy which had no chance of being successful could not count as such and did not need to be exhausted for the purposes of the Optional Protocol.

135. In case No. 1158/2003 (*Blaga v. Romania*), the Committee observed that the authors first applied to the State party's courts in 1992, and that in April 2001 the State party abrogated the administrative remedy which the authors had applied for. However, the Committee considered it unreasonable to require the authors to pursue further judicial remedies, some 11 years after having first done so and litigating up to the highest judicial instance, and concluded that it was not precluded under article 5, paragraph 2 (b) from considering the communication.

136. In case No. 1175/2003 (*Lim Soo Ja v. Australia*), the Committee observed that the authors did not apply for review by the Migration Review Tribunal of the refusal decisions on their applications for permanent residence, and thus became time-barred. While the authors attributed responsibility for this failure to the incorrect advice of a migration agent, the Committee recalled that an author is required to abide by reasonable procedural requirements such as filing deadlines, and that the default of an author's representative cannot be held against the State party, unless in some measure due to the latter's conduct. In the present case, there was no indication of any such State responsibility. The Committee also noted that the authors did not seek judicial review of the adverse determination of the Refugee Review Tribunal. Consequently, it concluded that the authors had failed to exhaust domestic remedies.

137. In case No. 1184/2003 (*Brough v. Australia*), the Committee observed that to be contrary to articles 7 and 10 of the Covenant, treatment of a person deprived of liberty must not necessarily cause any recognizable psychiatric injury to that person, as seems to be the standard required for establishing a tort in negligence under Australian law. It considered that the author had sufficiently shown, and the State party had not refuted, that the emotional distress and anxiety allegedly suffered by the author would have constituted insufficient grounds for filing a court action based on a breach of duty of care. Against this background, the Committee considered that, although in principle judicial remedies were available, in accordance with article 2, paragraph 3, of the Covenant, it would have been futile for the author, in the circumstances of his case, to commence court proceedings. It therefore concluded that he was not required, for purposes of article 5, paragraph 2 (b), of the Optional Protocol, to exhaust that remedy.

138. In case No. 1289/2004 (*Osivand v. The Netherlands*), the Committee recalled its constant jurisprudence that where an author has lodged renewed proceedings with the authorities that address the substance of the claim before the Committee, the author must be considered to have failed to exhaust domestic remedies. It therefore considered that the case was inadmissible.

139. In case No. 1374/2005 (*Kurbogaj v. Spain*), concerning the alleged ill-treatment of the authors by members of the Spanish Police Unit of UNMIK in Kosovo, the Committee noted the authors' claim that the State party is responsible for the violation of their rights as a result of illegal acts committed by the Spanish Police Unit present in Kosovo. Without pronouncing itself on the question of jurisdiction in the particular circumstances of the case, it also noted that the authors had not addressed themselves at any point to any penal or administrative authorities in Spain. While acknowledging the practical difficulties they would encounter in initiating proceedings in Spain, the Committee noted the State party's observation that a written complaint would have been enough to, at least, initiate an investigation. It recalled that mere doubts about the effectiveness of judicial remedies or the prospect of substantial costs of pursuing such remedies do not absolve a complainant from his or her obligation to attempt to exhaust them. Consequently, the Committee concluded that the authors failed to exhaust domestic remedies.

140. Other claims declared inadmissible for lack of exhaustion of domestic remedies, during the period under review, are included in cases Nos. 1010/2001 (*Aouf v. Belgium*), 1044/2002 (*Shukurova v. Tajikistan*), 1218/2003 (*Platonov v. Russian Federation*), 1238/2004 (*Jongenburger v. The Netherlands*), 1012/2001 (*Burgess v. Australia*), 1034-1035/2001 (*Soltes v. the Czech Republic and the Slovak Republic*), 1059/2002 (*Carvallo v. Spain*), 1078/2002 (*Yurich v. Chile*), 1103/2002 (*Castro v. Colombia*), 1279/2004 (*Fa'aaliga v. New Zealand*), 1283/2004 (*Calle v. France*), 1304/2004 (*Khan v. Canada*), 1403/2005 (*Gilberg v. Germany*), and 1420/2005 (*Linder v. Finland*).

(i) Interim measures under rule 92 (old rule 86) of the Committee's rules of procedure

141. Under rule 92 of the Committee's rules of procedure, the Committee may, after receipt of a communication and before adopting its Views, request a State party to take interim measures in order to avoid irreparable damage to the victim of the alleged violations. The Committee continues to apply this rule on appropriate occasions, mostly in cases submitted by or on behalf of persons who have been sentenced to death and are awaiting execution and who claim that they were denied a fair trial. In view of the urgency of such communications, the Committee has requested the States parties concerned not to carry out the death sentences while the cases are under consideration. Stays of execution have specifically been granted in this connection. Rule 92 has also been applied in other circumstances, for instance in cases of imminent deportation or extradition which may involve or expose the author to a real risk of violation of rights protected under the Covenant. For the Committee's reasoning on whether or not to issue a request under rule 92, see the Committee's Views in case No. 558/1993 (*Canepa v. Canada*).[3]

142. In case No. 915/2000 (*Ruzmetov v. Uzbekistan*), the Committee noted the author's allegation that the State party violated its obligations under the Optional Protocol by executing her sons, despite the interim measures request issued by the Committee. No reply was received from the State party on the request for interim measures, and no explanations were provided in relation to the author's allegation that her sons were executed after the registration of the communication by the Committee, and after a request for interim measures was issued to the State party. The Committee recalled that interim measures are essential to the Committee's role under the Protocol; flouting of the rule, especially by irreversible measures such as the execution of the alleged victims, undermines the protection of Covenant rights through the Optional Protocol. In the circumstances, the Committee considered that the facts, as submitted by the author, disclosed a breach of the Optional Protocol. The Committee reached the same conclusion in case No. 1044/2002 (*Shukurova v. Tajikistan*), where the victims were allegedly executed before the Committee concluded its consideration of the case, and in spite of several reminders of the interim measures request addressed to the State party.

143. In case No. 1196/2003 (*Boucherf v. Algeria*), concerning the disappearance of the victim, counsel requested interim measures relating to the State party's draft amnesty law (*Projet de Charte pour la Paix et la Reconciliation Nationale*), which was submitted to a referendum on 29 September 2005. According to counsel, the draft law was likely to cause irreparable harm to the victims of disappearances, putting at risk those persons who were still disappeared, and deprived victims of an effective remedy as well as rendering the views of the Human Rights Committee ineffective. Counsel therefore requested that the Committee invite the State party to suspend its referendum until the Committee issued Views in three cases, including the present case. The request for interim measures was transmitted to the State party for comments, but none were received. Subsequently, the Special Rapporteur on new communications and interim

measures requested the State party not to invoke against individuals who had submitted or may submit, communications to the Committee, the provisions of the law affirming "that no one, in Algeria or abroad, has the right to use, or make use of, the wounds caused by the national tragedy in order to undermine the institutions of the People's Democratic Republic of Algeria, render the State fragile, question the integrity of all the agents who served it with dignity, or tarnish the image of Algeria abroad", and rejecting "all allegations aiming at rendering the State responsible for deliberate disappearances. They [the Algerian people] consider that reprehensible acts on the part of State agents, which have been punished by law each time they have been proved, cannot be used as a pretext to discredit the whole of the security forces who were doing their duty for their country and received public backing".

2. Substantive issues

(a) Right to be provided with an effective remedy (art. 2, para. 3)

144. In case No. 1036/2001 (*Faure v. Australia*), the Committee recalled its jurisprudence according to which article 2, paragraph 3, requires that in addition to effective protection of Covenant rights States parties must ensure that individuals also have accessible, effective and enforceable remedies to vindicate those rights. A literal reading of that provision seems to require that an actual breach of one of the guarantees of the Covenant be formally established as a necessary prerequisite to obtain remedies such as reparation or rehabilitation. However, article 2, paragraph 3 (b), obliges States parties to ensure determination of the right to such remedy by a competent judicial, administrative or legislative authority, a guarantee which would be void if it were not available where a violation had not yet been established. While a State party cannot be reasonably required, on the basis of article 2, paragraph 3 (b), to make such procedures available no matter how unmeritorious such claims may be, article 2, paragraph 3, provides protection to alleged victims if their claims are sufficiently well-founded to be arguable under the Covenant. Applying this reasoning to the present claim that the State party did not provide an effective remedy for the alleged breach of article 8 of the Covenant, the Committee observed that, in the State party's legal system, it was and remains impossible for a person such as the author to challenge the substantive elements of the Work for Dole program, that is, the obligation imposed by law on persons such as the author, who satisfy the preconditions for access to the program, to perform labour in exchange for receipt of unemployment benefits. The Committee recalled that the State party's proposed remedies addressed the question of whether or not an individual in fact satisfied the requirements for access to the program, but no remedy was available to challenge the substantive scheme for those who were by law subject to it. The Committee concluded that the absence of such remedy amounted to a violation of article 2, paragraph 3, read together with article 8.

145. In case No. 1250/2004 (*Lalith Rajapakse v. Sri Lanka*), the Committee insisted that expedition and effectiveness are particularly important in the adjudication of cases involving torture. In the case at issue, the author had been arrested by the police and allegedly tortured while in detention. The Committee observed that the criminal investigation was not initiated by the Attorney-General until over three months after the incident, despite the fact that the author had to be hospitalized, was unconscious for 15 days, and had a medical report describing his injuries. It also observed that inadequate time had been assigned for the hearing of the case which was still pending four years after the alleged incident, and rejected the State party's argument that the High Court had a large workload. The State party also failed to provide any time frame for the consideration of the case, despite its claim that counsel for the prosecution

requested that the trial judge expedite the case. The Committee considered that the State party may not avoid its responsibilities under the Covenant with the argument that domestic courts are dealing with the matter, when it is clear that the remedies relied upon by the State party have been prolonged and would appear to be ineffective. Consequently, it found that the absence of an effective remedy amounted to a violation of article 2, paragraph 3, in connection with article 7. With regard to the author's claim relating to the circumstances of his arrest, the Committee noted that the State party merely argued that these claims were made by the author in his fundamental rights application to the Supreme Court which remains pending. Accordingly, the Committee found that the State party had violated article 9, paragraphs 1, 2 and 3, alone and together with article 2, paragraph 3.

(b) The right to life (Covenant, art. 6)

146. In cases Nos. 812/1998 (*Persaud v. Guyana*), 862/1999 (*Hussain et al. v. Guyana*) and 913/2000 (*Chan v. Guyana*), the Committee recalled its jurisprudence that the automatic and mandatory imposition of the death penalty constitutes an arbitrary deprivation of life, in violation of article 6, paragraph 1 of the Covenant, in circumstances where the death penalty is imposed without regard being able to be paid to the defendant's personal circumstances or the circumstances of the particular offence. The Committee came to a similar conclusion in case No. 1421/2005 (*Larrañaga v. The Philippines*), although it noted at the same time that the State party had adopted Republic Act No. 9346 in June 2006 abolishing the death penalty in the Philippines. In case No. 1132/2002 (*Chisanga v. Zambia*), concerning the author's sentence to death for the crime of aggravated robbery in which a firearm was used, the Committee noted that, although the victim of the crime was shot in the thigh, it did not result in loss of life. The Committee therefore found that the imposition of death penalty in this case violated the author's right to life.

147. In case 907/2000 (*Sirageva v. Uzbekistan*), the Committee recalled that the imposition of a death sentence upon conclusion of a trial in which the provisions of the Covenant have not been respected, constitutes a violation of article 6 if no further appeal against the death sentence is possible. In the particular case, the death sentence was pronounced without the requirements for a fair trial set out in article 14 having been met. The Committee therefore concluded that the right protected under article 6 had also been violated. The Committee came to a similar conclusion in cases Nos. 913/2000 (*Chan v. Guyana*), 915/2000 (*Ruzmetov v. Uzbekistan*), 959/2000 (*Bazarov v. Uzbekistan*), 985/2001 (*Aliboeva v. Tajikistan*) and 1044/2002 (*Shukurova v. Tajikistan*).

(c) Right to seek pardon or commutation of death sentence (Covenant, art. 6, para. 4)

148. In case No. 1132/2002 (*Chisanga v. Zambia*), the Committee noted the author's allegations that he was transferred from death row to the long-term section of the prison for two years. After he had been transferred back to death row, the president issued an amnesty or commutation applicable to prisoners who had been on death row for more than 10 years. The sentence imposed on the author, who had been in detention for 11 years, 2 of which he had served in the long-term section, was not commuted. In the absence of any clarifications of the State party in this regard, due weight must be given to the author's allegations. The Committee considered that taking the author from death row and then refusing to apply to him the amnesty

applicable to those who had been on death row for 10 years, deprived the author of an effective remedy in relation to his right to seek amnesty or commutation as protected by article 6, paragraph 4, together with article 2 of the Covenant.

(d) Right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment (Covenant, art. 7)

149. In cases Nos. 889/1999 (*Zheikov v. Russian Federation*) and 907/2000 (*Sirageva v. Uzbekistan*), involving claims of maltreatment while in detention, the Committee found violations of article 7 of the Covenant and recalled that a State party is responsible for the security of any person it deprives of liberty. Where an individual deprived of liberty receives injuries in detention, it is incumbent on the State party to provide a plausible explanation of how these injuries occurred and to produce evidence refuting these allegations. In the first case, the Committee also recalled its jurisprudence that the burden of proof cannot rest alone on the author, especially considering that the author and the State party do not always have equal access to the evidence and that frequently the State party alone has access to relevant information. It is implicit in article 4, paragraph 2 of the Optional Protocol that the State party has the duty to investigate in good faith all allegations of violation of the Covenant made against it and its authorities, and to furnish to the Committee the information available to it. In this case, the State party does not deny that force was used against the author, that investigations had thus far failed to identify those responsible and that the author had not been afforded an effective remedy, in form of proper investigations into his treatment. The Committee thus concluded that the lack of adequate investigation into the author's allegations of ill-treatment amounted to a violation of article 7 of the Covenant, read together with article 2.

150. In case No. 915/2000 (*Ruzmetov v. Uzbekistan*), the Committee noted the author's description of the torture to which her sons were subjected to make them confess guilt. She had identified the individuals alleged to have participated in these acts. The material submitted by the author also stated that the allegations of torture were brought to the attention of the authorities by the victims themselves and that they were ignored. In these circumstances, and in the absence of any pertinent explanation from the State party, due weight had to be given to her allegations, in particular that the State party authorities did not properly discharge their obligation effectively to investigate complaints about incidents of torture. The Committee considered that the facts as submitted disclosed a violation of article 7 in relation to the author's sons. In the same case, the Committee noted the author's claim that the State party authorities ignored her requests for information and systematically refused to reveal her sons' situation or whereabouts. The Committee understands the continued anguish and mental stress caused to the author, as the mother of the condemned prisoners, by the persisting uncertainty of the circumstances that led to their execution, as well as the location of their gravesite. The secrecy surrounding the date of execution, and failure to disclose the place of burial have the effect of intimidating or punishing families by intentionally leaving them in a state of uncertainty and mental distress. The Committee therefore considered that the authorities' failure to notify the author of the execution of her sons, amounted to inhuman treatment, in violation of article 7. The Committee came to a similar conclusion regarding the refusal to inform the family about the execution of the victims in cases Nos. 959/2000 (*Bazarov v. Uzbekistan*), 985/2001 (*Aliboeva v. Tajikistan*) and 1044/2002 (*Shukurova v. Tajikistan*).

151. In case No. 1070/2002 (*Kouidis v. Greece*), the Committee held that the manner in which torture allegations should be investigated was for the national investigating authorities to decide, in as far as it was not arbitrary. In the circumstances, the Committee could not conclude that the confession of the author resulted from treatment contrary to article 7, and found that the facts did not disclose a violation of article 7 read in conjunction with article 14, paragraph 3 (g).

152. In case No. 1132/2002 (*Chisanga v. Zambia*), the Committee considered that to keep the author in doubt as to the result of his appeal, in particular by making him believe that his death sentence had been commuted, only to inform him later that it was not, and by returning him to death row after two years in the long-term section, without an explanation on the part of the State, had such a negative psychological impact and left him in such continuing uncertainty, anguish and mental distress as to amount to cruel and inhuman treatment. Accordingly, the Committee found that the State party had violated the author's rights under article 7.

153. In case No. 1153/2003 (*K.N.L.H. v. Peru*), concerning the refusal to allow a therapeutic abortion, the author claimed that, owing to the refusal of the medical authorities to carry out the therapeutic abortion, she had to endure the distress of seeing her infant daughter's marked deformities and knowing that the daughter would die very soon. This was an experience which added further pain and distress to that which she had already borne during the period when she was obliged to continue with the pregnancy. The Committee noted that this situation could have been foreseen, since a hospital doctor had diagnosed anencephaly in the foetus, yet the hospital director refused termination. The omission on the part of the State in not enabling the author to benefit from a therapeutic abortion was, in the Committee's view, the cause of the suffering she experienced. The Committee pointed out in its general comment No. 20 that the right set out in article 7 of the Covenant relates not only to physical pain but also to mental suffering, and that the protection is particularly important in the case of minors. In the absence of any information from the State party in this regard, due weight had to be given to the author's allegations. Consequently, the Committee considered that the facts before it revealed a violation of article 7 of the Covenant.

154. In case No. 1208/2003 (*Kurbonov v. Tajikistan*), the Committee found that the action of the courts regarding the victim's allegation that the confession was made under duress, placed the burden of proof on the author, whereas the general principle is that such burden is on the prosecution. The Committee concluded that the treatment of the alleged victim during his preliminary detention and the manner the courts addressed his subsequent claims to this effect, amounted to a violation of articles 7 and 14, paragraph 1.

155. In case No. 1297/2004 (*Medjnoune v. Algeria*), the Committee examined a claim of incommunicado detention. It recalled its jurisprudence that the burden of proof cannot rest alone on the author, especially considering that the author and the State party do not always have equal access to the evidence and that frequently the State party alone has access to relevant information. In the present case, it considered that the allegations were sufficiently substantiated since the State party did not refute them by providing satisfactory evidence and explanation. The Committee considered that the anguish caused by the incommunicado detention constituted a violation of article 7. Moreover, it found that the ill-treatment to which the author was subjected during the detention also constituted a violation of article 7.

156. In case No. 1421/2005 (*Larrañaga v. The Philippines*), the Committee considered that to impose a death sentence on a person after an unfair trial is to subject that person wrongfully to the fear that he will be executed. In circumstances where there is a real possibility that the sentence will be enforced, that fear must give rise to considerable anguish which cannot be dissociated from the unfairness of the proceedings underlying the sentence. Accordingly, the Committee concluded that the imposition of a death sentence after the conclusion of proceedings which did not meet the requirements of article 14 of the Covenant amounted to inhuman treatment, in violation of article 7.

157. Other cases in which the Committee found violations of article 7 are Nos. 985/2001 (*Aliboeva v. Tajikistan*), 1042/2001 (*Boimurodov v. Tajikistan*), 1044/2002 (*Shukurova v. Tajikistan*), 1058/2002 (*Vargas v. Peru*), 1126/2002 (*Carranza v. Peru*) and 1152 and 1190/2003 (*Ndong Bee et al. v. Equatorial Guinea*).

(e) Right not to be required to perform forced or compulsory labour (art. 8, para. 3)

158. In case No. 1036/2001 (*Faure v. Australia*), the author claimed that the obligation imposed on her to perform labour in exchange for receipt of unemployment benefits ("Work for Dole Programme") amounted to a violation of article 8, paragraph 3. The Committee held the view that the term "forced or compulsory labour" covered a range of conduct extending from, on the one hand, labour imposed on an individual by way of criminal sanction, notably in particularly coercive, exploitative or otherwise egregious conditions, through, on the other hand, to lesser forms of labour in circumstances where punishment as a comparable sanction was threatened if the labour directed was not performed. The Committee noted, moreover, that article 8, paragraph 3 (c) (iv), of the Covenant exempted from the term "forced or compulsory labour" such work or service forming part of normal civil obligations. In the Committee's view, to so qualify as a normal civil obligation, the labour in question must, at a minimum, not be an exceptional measure; it must not possess a punitive purpose or effect; and it must be provided for by law in order to serve a legitimate purpose under the Covenant. In the light of these considerations, the Committee was of the view that the material before it, including the absence of a degrading or dehumanizing aspect of the specific labour performed, did not show that the labour required from the author came within the scope of the proscriptions set out in article 8. It followed, therefore, that no violation of article 8 of the Covenant had been made out. (But see paragraph 144 above for related aspects of this case.)

(f) Liberty and security of person (Covenant, art. 9, para. 1)

159. In case No. 915/2000 (*Ruzmetov v. Uzbekistan*), the Committee considered the claim regarding the authors' deprivation of liberty by persons acting in an official capacity, without charges, and the subsequent failure of the State party to investigate these acts. It recalled that article 9, paragraph 1, is applicable to all forms of deprivation of liberty, and considered that the facts as submitted amounted to an unlawful deprivation of liberty in violation of article 9, paragraph 1.

160. In case No. 1044/2002 (*Shukurova v. Tajikistan*), the Committee found a violation of article 9, paragraph 1, in that the victim was kept in detention without contact with the outside world for 34 days, when the arrest was endorsed by a prosecutor.

161. In case No. 1050/2002 (*D. and E. v. Australia*), the Committee considered that the continuation of immigration detention of the authors including two children, for three years and two months, without any appropriate justification, was arbitrary and contrary to article 9, paragraph 1.

162. In case No. 1208/2003 (*Kurbonov v. Tajikistan*), the author claimed that his son was unlawfully arrested and released after 21 days of detention without having either his arrest or detention registered, nor having been promptly informed of the charges against him. The police officers were disciplined for having brought the author's son unlawfully to the Criminal Search Department of the Ministry of Interior, having groundlessly detained him there for 21 days without official record, and having opened a groundless criminal case against him. In the circumstances, the Committee considered that the facts before it disclosed a violation of the author's son's rights under article 9, paragraphs 1 and 2.

163. In case No. 1250/2004 (*Lalith Rajapakse v. Sri Lanka*), the Committee recalled that article 9, paragraph 1, protects the right to security of a person also outside the context of formal deprivation of liberty. This interpretation of article 9 does not allow a State party to ignore threats to the personal security of non-detained persons subject to its jurisdiction. In the present case, the State party failed to take adequate action to ensure that the author was and continued to be protected from threats issued by police officers, since he filed his petition in his fundamental rights case. As a result, he had gone into hiding, whereas the alleged perpetrator was not in custody. Accordingly, the Committee considered that the author's right to security of person, under article 9, paragraph 1, had been violated.

164. Other cases in which the Committee found violations of article 9, paragraph 1, include cases Nos. 1058/2002 (*Vargas v. Peru*), 1125/2002 (*Quispe v. Peru*), 1126/2002 (*Carranza v. Peru*), 1152 and 1190/2003 (*Ndong Bee et al. v. Equatorial Guinea*), and 1297/2004 (*Medjnoune v. Algeria*).

165. In cases Nos. 992/2001 (*Bousroual v. Algeria*) and 1196/2003 (*Boucherf v. Algeria*) the Committee recalled the definition of enforced disappearance contained in article 7, paragraph 2 (i) of the Rome Statute of the International Criminal Court and stated that any act of such disappearance constitutes a violation of many of the rights enshrined in the Covenant, including the right to liberty and security of the person (art. 9), the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment (art. 7), and the right of all persons deprived of their liberty to be treated with humanity and with respect for the inherent dignity of the human person (art. 10). It also violates or constitutes a grave threat to the right to life (art. 6).

(g) Right to be informed of the reasons for one's arrest (Covenant, art. 9, para. 2)

166. In case No. 1297/2004 (*Medjnoune v. Algeria*), the Committee found violations of article 9, paragraph 2, and article 14, paragraph 3 (a), since the author was held incommunicado and not informed of the reasons for his arrest for 218 days.

(h) Right to be brought promptly before a judge (Covenant, art. 9, para. 3)

167. In case No. 915/2000 (*Ruzmetov v. Uzbekistan*), the Committee noted that the author's sons' pretrial detention was approved by the public prosecutor, and that there was no subsequent

judicial review of the lawfulness of detention until they were brought before a court and sentenced. The Committee observed that article 9, paragraph 3, is intended to bring the detention of a person charged with a criminal offence under judicial control and recalled that it is inherent to the proper exercise of judicial power, that it be exercised by an authority which is independent, objective and impartial in relation to the issues dealt with. In the circumstances of the case, the Committee was not satisfied that the public prosecutor may be characterized as having the institutional objectivity and impartiality necessary to be considered an "officer authorized to exercise judicial power" within the meaning of article 9, paragraph 3. The Committee therefore concluded that there had been a violation of this provision. The Committee reached a similar decision in cases Nos. 959/2000 (*Bazarov v. Uzbekistan*), 1100/2002 (*Bandajevsky v. Belarus*) and 1218/2003 (*Platonov v. Russian Federation*).

168. In case No. 1042/2001 (*Boimurodov v. Tajikistan*), the Committee recalled that the right to be brought "promptly" before a judicial authority implied that delays must not exceed a few days, and that incommunicado detention as such may violate article 9, paragraph 3. The fact that the alleged victim was held incommunicado for a period of 40 days was considered to be a breach of such provision. The Committee reached a similar conclusion in case No. 1297/2004 (*Medjnoune v. Algeria*).

(i) Treatment during imprisonment (Covenant, art. 10)

169. In case No. 1100/2002 (*Bandajevsky v. Belarus*), the Committee noted the author's allegations that the conditions of detention in the Gomel detention centre, where he was held from 13 July 1999 to 6 August 1999, were inappropriate for long stays, and that the centre was not equipped with beds; that, in general, he did not have items of personal hygiene or adequate personal facilities. The State party did not refute these allegations. In the circumstances, the Committee considered that it must give them due weight, and concluded that the author's conditions of detention revealed a violation of his rights under article 10, paragraph 1.

170. In case No. 1184/2003 (*Brough v. Australia*), the Committee recalled that persons deprived of their liberty must not be subjected to any hardship or constraint other than that resulting from the deprivation of liberty; respect for the dignity of such persons must be guaranteed under the same conditions as for that of free persons. Inhuman treatment must attain a minimum level of severity to come within the scope of article 10 of the Covenant. The assessment of this minimum depends on all the circumstances of the case, such as the nature and context of the treatment, its duration, its physical or mental effects and, in some instances, the sex, age, state of health or other status of the victim. The State party had not advanced that the author received any medical or psychological treatment, apart from the prescription of anti-psychotic medication, despite his repeated instances of self-harm, including a suicide attempt. The very purpose of the use of a safe cell "to provide a safe, less stressful and more supervised environment where an inmate may be counselled, observed and assessed for appropriate placement or treatment" was negated by the author's negative psychological development. Moreover, it remained unclear whether the requirements not to use confinement to a safe cell as a sanction for breaches of correctional centre discipline or for segregation purposes, or to ensure that such confinement did not exceed 48 hours unless expressly authorized, were complied with in the author's case. The Committee further observed that the State party had not demonstrated that by allowing the author's association with other prisoners of his age, their security or that of the correctional facility would have been jeopardized. Even assuming that the author's confinement to a safe or dry cell was intended to maintain prison order or to protect him

from further self-harm, as well as other prisoners, the Committee considered that measure incompatible with the requirements of article 10. The State party was required by article 10, paragraph 3, read together with article 24, paragraph 1, of the Covenant to accord the author treatment appropriate to his age and legal status. In the circumstances, the author's extended confinement to an isolated cell without any possibility of communication, combined with his exposure to artificial light for prolonged periods and the removal of his clothes and blanket, was not commensurate with his status as a juvenile person in a particularly vulnerable position because of his disability and his status as an Aboriginal. As a consequence, the hardship of the imprisonment was manifestly incompatible with his condition, as demonstrated by his inclination to inflict self-harm and his suicide attempt. The Committee therefore concluded that the author's treatment violated article 10, paragraphs 1 and 3, of the Covenant.

171. Other cases in which the Committee found violations of article 10 include cases Nos. 1058/2002 (*Vargas v. Peru*) and 1126/2002 (*Carranza v. Peru*).

(j) Guarantees of a fair hearing (Covenant, art. 14, para. 1)

172. In case No. 959/2000 (*Bazarov v. Uzbekistan*), the authors alleged that their son's co-defendants had been beaten and tortured during the investigation to the point that they gave false testimony which served as a basis for his conviction. The Committee noted that the State party merely stated that the co-defendants or lawyers did not request the court to carry out any medical examination and that unspecified "internal safeguard procedures" of the law-enforcement agencies had not revealed any misconduct during the pretrial detention. It also noted that the State party had not adduced any documentary evidence of any inquiry conducted in the context of the court trial. It concluded that the facts revealed a violation of the victim's rights under article 14, paragraph 1.

173. In case No. 1126/2002 (*Carranza v. Peru*), the Committee took note of the author's allegations that the hearings at her trial were held in private and that the court comprised faceless judges who could not be challenged; that she was unable to communicate with her lawyer during the seven days she was held incommunicado; that the police officers involved in the investigation were not called as witnesses since this was not permitted under Decree-Law No. 25475; and that her lawyer was not able to challenge witnesses who had made statements during the police investigation. In the circumstances, the Committee concluded that article 14 of the Covenant was breached as a whole. The Committee reached a similar conclusion in cases Nos. 1125/2002 (*Quispe v. Peru*), 1058/2002 (*Vargas v. Peru*), and 1298/2004 (*Becerra v. Colombia*). The Committee also found violations of several paragraphs of article 14 in cases Nos. 1152 and 1190/2003 (*Ndong Bee et al. v. Equatorial Guinea*).

174. In case No. 1100/2002 (*Bandajevsky v. Belarus*), the author claimed that he was sentenced by the Military Chamber of the Supreme Court which was sitting in an unlawful composition, as pursuant to a decision of the Supreme Council of Belarus of 7 June 1996, people's jurors (assessors) in military courts must be in active military service, whereas in his case, only the presiding judge was a member of the military but not the jurors. The State party did not refute this allegation and merely stated that the trial did not suffer from any procedural defect. The Committee considered that the unchallenged fact that the court that tried the author was improperly constituted meant that the court was not established by law, within the meaning of article 14, paragraph 1.

175. In case No. 1421/2005 (*Larrañaga v. The Philippines*), the author claimed that there were many procedural irregularities in his trial at first instance. Upon his appeal to the Supreme Court, he was sentenced to death for the first time. The Committee noted that the trial judge and two Supreme Court judges were involved in the evaluation of the preliminary charges against the author in 1997. In the present case, the involvement of these judges in the preliminary proceedings was such as to allow them to form an opinion on the case prior to the trial and appeal proceedings. This knowledge necessarily related to the charges against the author and the evaluation of those charges. Consequently, the Committee considered that the involvement of these judges in the trial and appeal proceedings was incompatible with the requirement of impartiality in article 14, paragraph 1.

(k) Right to be presumed innocent (Covenant, art. 14, para. 2)

176. In case No. 1421/2005 (*Larrañaga v. The Philippines*), the author invoked a number of incidents which he claimed demonstrate that he did not benefit from the presumption of innocence. The Committee noted that it was cognizant that some States require that a defence of alibi must be raised by the defendant, and that a certain standard of proof must be met before the defence is cognizable. However, in the present case, the Committee observed that the trial judge did not show sufficient latitude in permitting the defendant to prove this defence, and in particular, excluded several witnesses offered in the alibi defence. A criminal court may convict a person only when there is no reasonable doubt of his or her guilt, and it is for the prosecution to dispel any such doubt. In the present case, the trial judge put a number of leading questions to the prosecution which tend to justify the conclusion that the author was not presumed innocent until proven guilty. Moreover, incriminating evidence against a person provided by an accomplice charged with the same crime should, in the Committee's opinion, be treated cautiously, particularly where the accomplice was found to lie about his previous criminal convictions, was granted immunity from prosecution, and eventually admitted to raping one of the victims. Accordingly, the Committee considered that the author's trial did not respect the principle of presumption of innocence, in violation of article 14, paragraph 2.

(l) Rights of defence (Covenant, art. 14, para. 3 (b) and (d))

177. In case No. 907/2000 (*Sirageva v. Uzbekistan*), the author alleged that her son's right to properly prepare his defence was violated, because during the preliminary investigation, his lawyer was prevented from seeing him confidentially, and because counsel was allowed to examine the Court's records only shortly before the hearing in the Supreme Court. The State party did not challenge these claims. As a result, the Committee considered that article 14, paragraph 3 (b), had been violated.

178. In case No. 913/2000 (*Chan v. Guyana*), the Committee considered that in a capital case, where the defence lawyer is absent on the first day of the trial, when he is being appointed as legal aid counsel for the accused and, through his representative, requests adjournment of the trial, the Court must ensure that such adjournment provides the accused with sufficient time to prepare his defence together with his lawyer. It should have been manifest to the judge in a capital case that counsel's request for an adjournment of the trial for only two week days, during which he was engaged in another case, was not compatible with the interests of justice, since it did not provide the author with adequate time and facilities to prepare his defence. Accordingly,

the Committee concluded that the author was not effectively represented at trial, in violation of article 14, paragraph 3 (b) and (d). The Committee reached a similar conclusion in case No. 1421/2005 (*Larrañaga v. The Philippines*).

179. In case No. 915/2000 (*Ruzmetov v. Uzbekistan*), the author claimed that her sons were denied access to a lawyer of their choosing during the pretrial investigation and the trial. Furthermore, she was not informed of the date of her sons' trial and thus could not hire an independent lawyer to defend them at the trial. Their lawyer, subsequently hired by the author, was twice refused permission to see his clients after they were sentenced to death. The Committee recalled its jurisprudence that, particularly in cases involving capital punishment, it is axiomatic that the accused is effectively assisted by a lawyer at all stages of the proceedings. In the circumstances of the case, and in the absence of pertinent explanations from the State party, the Committee considered that the legal assistance did not meet the required threshold of effectiveness. Therefore, the information before the Committee disclosed a violation of article 14, paragraph 3 (b) and (d). The Committee reached a similar conclusion in case No. 1044/2002 (*Shukurova v. Tajikistan*).

180. In case No. 985/2001 (*Aliboeva v. Tajikistan*), the Committee found a violation of article 14, paragraph 3 (d), in that the alleged victim faced capital charges and was without any legal defence during the preliminary investigation. In case No. 1042/2001 (*Boimurodov v. Tajikistan*), the fact that the alleged victim had been held incommunicado for a period of 40 days, without access to counsel, was considered a breach of article 14, paragraph 3 (b).

181. In case No. 1123/2002 (*Correia de Matos v. Portugal*), the author, a lawyer, complained that he had not been allowed to defend himself before the Portuguese Courts, in contravention of article 14, paragraph 3 (d), of the Covenant. The Committee considered that the wording of this provision is clear in that it provides for a defence to be conducted in person "or" with legal assistance of one's own choosing, taking as its point of departure the right to conduct one's own defence. In fact, if an accused person had to accept an unwanted counsel whom he does not trust he may no longer be able to defend himself effectively, as such counsel would not be his assistant. Thus, the right to conduct one's own defence, which is a cornerstone of justice, may be undermined when a lawyer is imposed against the wishes of the accused. The right to defend oneself without a lawyer is not absolute, however. Notwithstanding the importance of the relationship of trust between accused and lawyer, the interest of justice may require the assignment of a lawyer against the wishes of the accused, particularly in case of a person substantially and persistently obstructing the proper conduct of trial, or facing a grave charge but being unable to act in his own interest, or where it is necessary to protect vulnerable witnesses from further distress if the accused were to question them himself. However, any restriction of the accused's wish to defend himself must have an objective and sufficiently serious purpose and not go beyond what is necessary to uphold the interests of justice. It is the task of the competent courts to assess whether in a specific case the assignment of a lawyer is necessary in the interest of justice, inasmuch as a person facing criminal prosecution may not be in a position to make a proper assessment of the interests at stake, and thus defend himself as effectively as possible. However, in the present case, the legislation of the State party and the case law of its Supreme Court provide that the accused can never be freed from the duty to be represented by counsel in criminal proceedings, even if he is a lawyer himself, and that the law takes no account of the seriousness of the charges or the behaviour of the accused. Moreover, the State party has not provided any objective and sufficiently serious reasons to explain why, in this instance of a relatively simple case, the absence of a court-appointed lawyer would have jeopardized the

interests of justice or why the author's right to self-representation had to be restricted. Accordingly, the Committee concluded that the right to defend oneself in person, guaranteed under article 14, paragraph 3 (d), had not been respected.

(m) Right to be tried without undue delay (Covenant, art. 14, para. 3 (c))

182. In case No. 1297/2004 (*Medjnoune v. Algeria*), the Committee noted that the author was still awaiting trial nearly seven years after the start of the inquiry and more than five years after the first committal order. Consequently, it found that such a delay constituted a violation of article 14, paragraph 3 (c). The Committee reached a similar conclusion in case No. 1421/2005 (*Larrañaga v. The Philippines*).

(n) Right to examine witnesses or have witnesses examined (Covenant, art. 14, para. 3 (e))

183. In case No. 915/2000 (*Ruzmetov v. Uzbekistan*), the Committee noted the author's contention that the trial of her sons was largely held in camera and that none of the witnesses were present in the courtroom despite numerous requests to this effect. The judge denied such requests without giving any reasons. In the absence of any pertinent State party information, the Committee concluded that these facts disclosed a violation of article 14, paragraph 3 (e), of the Covenant.

(o) Right not to be compelled to testify against oneself or to confess guilt (Covenant, art. 14, para. 3 (g))

184. In case No. 915/2000 (*Ruzmetov v. Uzbekistan*) the Committee referred to its previous jurisprudence that the wording, in article 14, paragraph 3 (g), that no one shall "be compelled to testify against himself or confess guilt", must be understood in terms of the absence of any direct or indirect physical or psychological coercion by the investigating authorities on the accused with a view to obtaining a confession of guilt. It is implicit in this principle that the burden of proof that the confession was made without duress is on the prosecution. However, the Committee noted that in this case, the burden of proof whether the confession was voluntary was on the accused, and both the Tashkent Regional Court and the Supreme Court ignored the allegations of torture made by the author's sons. Thus, the Committee concluded that the State party had violated article 14, paragraphs 2 and 3 (g).

185. In case No. 1070/2002 (*Kouidis v. Greece*) the Committee considered that the obligations under article 14, paragraph 3 (g), entailed an obligation of the State party to take account of any claims that statements made by accused persons in a criminal case were given under duress. In this regard, it is immaterial whether or not a confession is actually relied upon, as the obligation refers to all aspects of the judicial process of determination. In the case under consideration, the State party's failure, at the level of the Supreme Court, to take account of the author's claims that his confession was given under duress, amounted to a violation of article 14, paragraph 3 (g).

186. Other cases in which the Committee found violations of this provision, together with article 7 of the Covenant, include cases Nos. 985/2001 (*Aliboeva v. Tajikistan*), 1042/2001 (*Boimurodov v. Tajikistan*) and 1044/2002 (*Shukurova v. Tajikistan*).

(p) Right to appeal (Covenant, art. 14, para. 5)

187. In case No. 985/2001 (*Aliboeva v. Tajikistan*), the author claimed that her husband's right to have his death sentence reviewed by a higher tribunal according to law was violated. The Committee recalled that even if a system of appeal may not be automatic, the right to appeal under article 14, paragraph 5, imposes on the State party a duty substantially to review, both on the basis of sufficiency of the evidence and of the law, the conviction and sentence, such that the procedure allows for due consideration of the nature of the case. The Committee considered that the absence of a possibility to appeal judgements of the Supreme Court passed at first instance to a higher judicial instance falls short of the requirements of article 14, paragraph 5. The Committee reached a similar conclusion in case No. 1421/2005 (*Larrañaga v. The Philippines*).

188. In case No. 1100/2002 (*Bandajevsky v. Belarus*), the author claimed that his sentence was not susceptible of cassation appeal and became executory immediately. The Committee noted that, according to the judgement itself, it could not be reviewed by a higher tribunal. The supervisory review invoked by the State party only applied to already executory decisions and thus constituted an extraordinary means of appeal which was dependent on the discretionary power of judge or prosecutor. When such review takes place, it is limited to issues of law only and does not permit any review of facts and evidence. The Committee recalled that even if a system of appeal may not be automatic, the right to appeal within the meaning of article 14, paragraph 5, imposes on States parties a duty substantially to review conviction and sentence, both as to sufficiency of the evidence and of the law. In the circumstances, the Committee considered that the supervisory review cannot be characterized as an "appeal", for the purposes of article 14, paragraph 5, and that this provision had been violated.

189. In case No. 1132/2002 (*Chisanga v. Zambia*), the Committee dealt with the contradictory notifications about the outcome of the author's appeal to the Supreme Court and noted that the author and the State party had provided conflicting versions of the facts. According to the author, he was handed two verdicts on appeal, one commuting his death sentence to 18 years of imprisonment, the subsequent one upholding his death penalty and sentencing him to an additional 18 years of imprisonment. According to the State party, there was only one judgement, which upheld the death sentence and sentenced him to an additional 18 years' imprisonment. It appeared from the file that the author was informed by official notification that his death sentence had been commuted and that he was thereupon transferred from death row to the long-term section of the prison. This comforted the author in his belief that his death sentence had indeed been commuted. In the light of the State party's failure to provide any explanation or comments clarifying this matter, due weight had to be given to the author's allegations in this respect. The Committee considered that the State party had failed to explain how the author came to be notified that the death penalty had been set aside. Transferring him to the long-term section of the prison showed that it was not a matter of the author's misunderstanding. To act inconsistently with the notification document transmitted to the author, without further explanation, called into question the manner in which the right of appeal guaranteed by article 14, paragraph 5, was executed, which in turn called into question the nature of the remedy. The Committee found that in acting in this manner, the State party had violated the author's right to an effective remedy in relation to his right to appeal, under article 14, paragraph 5, read together with article 2.

190. In case No. 1211/2003 (*Oliveró v. Spain*), the author, the manager of one of the companies implicated in alleged funding irregularities concerning the Spanish Socialist Workers' Party, claimed that his right to review of his conviction and sentence by a higher tribunal was violated, since he was tried by the highest ordinary criminal court, the Supreme Court, whose judgements are not susceptible to judicial review. The Committee noted that the author was tried by the Supreme Court because among his co-defendants were a member of the Senate and a member of the Congress of Deputies, and that under Spanish law, trials of cases involving members of Parliament are to be conducted by the Supreme Court. However, it pointed out that "according to law" is not intended to mean that the very existence of a right to review is left to the discretion of the States parties. Although the State party's legislation provided in certain circumstances for the trial of an individual, because of his position, by a higher court than would normally be the case, this circumstance alone could not impair the defendant's right to review of his conviction and sentence by a court. The Committee accordingly found a violation of article 14, paragraph 5, of the Covenant.

(q) Right not to be subjected to interference with one's privacy, family, home or correspondence (Covenant, art. 17)

191. In case No. 1153/2003 (*K.N.L.H. v. Peru*), the author claimed that the State party, in denying her the opportunity to secure medical intervention to terminate the pregnancy that put her life at risk, interfered arbitrarily in her private life. The Committee noted that a public-sector doctor told the author that she could either continue with the pregnancy or terminate it in accordance with domestic legislation allowing abortions in cases of risk to the life of the mother. In the absence of any information from the State party, due weight must be given to the author's claim that at the time of this information, the conditions for a lawful abortion as set out in the law were present. In the circumstances of the case, the refusal to act in accordance with the author's decision to terminate her pregnancy was not justified and amounted to a violation of article 17 of the Covenant.

(r) Right to freedom of thought, conscience and religion (Covenant, art. 18)

192. In case No. 1249/2004 (*Joseph et al. v. Sri Lanka*), a group of Catholic nuns engaged in teaching and other charity and community work, claimed that the refusal of the State party to allow the incorporation of their Order constituted a breach of article 18. The Committee observed that, for numerous religions, it is a central tenet to spread knowledge, to propagate their beliefs to others and to provide assistance. These aspects are part of an individual's manifestation of religion and free expression, and are thus protected by article 18, paragraph 1, to the extent not appropriately restricted by measures consistent with paragraph 3 of the same article. The authors advanced, and the State party had not refuted, that incorporation of the Order would better enable them to realize the objects of their Order, religious as well as secular, including for example the construction of places of worship. It followed that the Supreme Court's determination of the Bill's unconstitutionality restricted the authors' rights to freedom of religious practice and to freedom of expression, requiring limits to be justified. The decision of the Supreme Court considered that the Order's activities would, through the provision of material and other benefits to vulnerable people, coercively or otherwise improperly propagate religion. The Committee found that the decision failed to provide any evidentiary or factual foundation for this assessment, or reconcile this assessment with the analogous benefits and services provided by other religious bodies that had been incorporated. Similarly, the decision provided no justification for the conclusion that the Bill, including through spreading knowledge

of a religion, would "impair the very existence of Buddhism or the *Buddha Sasana*". In the Committee's view, the grounds advanced were insufficient to demonstrate, from the perspective of the Covenant, that the restrictions in question were necessary for one or more of the purposes enumerated in paragraph 3. It followed that there had been a breach of article 18, paragraph 1, of the Covenant.

(s) Freedom of opinion and expression (Covenant, art. 19)

193. In case No. 1009/2001 (*Shchetko v. Belarus*), the authors were fined for distributing leaflets calling for the boycott of the forthcoming Parliamentary elections under a provision of the Administrative Offences Code which prohibits public calls for the boycott of elections. The Committee recalled that article 19 of the Covenant allows restrictions only as provided by law and necessary (a) for respect of the rights and reputation of others; and (b) for the protection of national security or public order (*ordre public*), or of public health or morals. It further recalled that the right to freedom of expression is of paramount importance in any democratic society, and any restrictions on the exercise of this right must meet a strict test of justification. It also recalled that every citizen has the right to vote under article 25 (b) of the Covenant and that States parties should prohibit any intimidation or coercion of voters. However, any situation in which voters are subject to intimidation and coercion must be distinguished from a situation in which voters are encouraged to boycott an election without any form of intimidation. In the present case, the Committee noted that the State party did not present any justification for the restrictions of the authors' rights. It also observed that the material before it did not reveal that the authors' acts affected in any way the possibility of voters freely to decide whether or not to participate in the election in question. Accordingly, the Committee concluded that the authors' rights under article 19, paragraph 2, had been violated.

194. In case No. 1022/2001 (*Velichkin v. Belarus*), the author claimed that his freedom to impart information under article 19, paragraph 2, was violated since he was arrested and subsequently fined when he distributed the text of the Universal Declaration of Human Rights in the centre of a town in Belarus. From the materials before the Committee it transpired that the author's activities were qualified by the courts as "participation in an unauthorized meeting", and not as "imparting information". In the Committee's opinion, the above action of the authorities, irrespective of its legal qualification, amounted to a de facto limitation of the author's rights under article 19, paragraph 2. Moreover, the State party had not invoked any specific ground on which the restrictions imposed on the author's activity would be necessary within the meaning of article 19, paragraph 3.

195. In case No. 1157/2003 (*Coleman v. Australia*), the Committee decided that the author's arrest, conviction and sentence for delivering a speech in a shopping mall without the required permit amounted to a restriction on his freedom of expression, protected by article 19, paragraph 2. It observed that it was for the State party to demonstrate that the restriction on the author's freedom of speech was necessary in the present case and noted that even if a State party introduces a permit system aiming to strike a balance between an individual's freedom of speech and the general interest in maintaining public order in a certain area, such a system must not operate in a way that is incompatible with article 19 of the Covenant. In the present case, the Committee noted that the author made a public address on issues of public interest, and that there was no suggestion that this address was either threatening, unduly disruptive or otherwise likely to jeopardize public order in the mall. Since the author delivered his speech without a permit,

he was fined and, when he failed to pay the fine, was held in custody for five days. The Committee considered that this reaction to the author's conduct was disproportionate and amounted to a restriction of his freedom of speech incompatible with article 19, paragraph 3, of the Covenant.

196. In case No. 1180/2003 (*Bodrožić v. Serbia and Montenegro*), the question before the Committee was whether the author's conviction for criminal insult for an article published by him amounted to a breach of the right to freedom of expression, including the right to impart information. The Committee observed that the State party had advanced no justification that the prosecution and conviction of the author on charges of criminal insult were necessary for the protection of the rights and reputation of Mr. Segrt, then a prominent public and political figure. Given the factual elements found by the Court concerning the article, it was difficult for the Committee to discern how the expression of opinion by the author, in the manner he did, amounted to an unjustified infringement of Mr. Segrt's rights and reputation, much less one calling for the application of criminal sanction. The Committee observed, moreover, that in circumstances of public debate in a democratic society, especially in the media, concerning figures in the political domain, the value placed by the Covenant upon uninhibited expression was particularly high. It followed that the author's conviction and sentence in the present case amounted to a violation of article 19, paragraph 2.

(t) Right of minors to protection (Covenant, art. 24, para. 1)

197. In case No. 1153/2003 (*K.N.L.H. v. Peru*) the author claimed that in denying her the opportunity to secure medical intervention to terminate her pregnancy, she did not receive from the State party the special care she needed as a minor. The Committee noted the special vulnerability of the author as a minor girl. It further noted that, in the absence of any information from the State party, due weight had to be given to the author's claim that she did not receive, during and after her pregnancy, the medical and psychological support necessary in the specific circumstances of her case. Consequently, the Committee considered that the facts before it revealed a violation of article 24 of the Covenant.

(u) Right to have access to public service on general terms of equality (Covenant, art. 25 (c))

198. In case No. 1016/2001 (*Hinostroza v. Peru*), concerning the dismissal of a public servant owing to restructuring and in view of his age, the Committee recalled its jurisprudence to the effect that, while age as such is not mentioned as one of the grounds of discrimination prohibited in article 26, a distinction related to age which is not based on reasonable and objective criteria may amount to discrimination on the ground of "other status" under the clause in question, or to a denial of equal protection of the law within the meaning of the first sentence of article 26. This reasoning also applies to article 25 (c) in conjunction with article 2, paragraph 1, of the Covenant. However, in the case in question, the Committee noted that the author was not the only public servant who lost his job, but that other employees of the National Customs Authority were also dismissed because of restructuring of that entity. The State party indicated that the restructuring originated from a Supreme Decree wherein the Executive announced a reorganization of all public entities. The criteria for selecting those employees to be dismissed were established following a general implementation plan. The Committee considered that the

age limit used for continued post occupancy was an objective distinguishing criterion and that its implementation in the context of a general plan for the restructuring of the civil service was not unreasonable. Under the circumstances, the Committee considered that the author had not been the subject of a violation of article 25 (c).

(v) The right to equality before the law and the prohibition of discrimination (Covenant, art. 26)

199. In case No. 1054/2002 (*Kříž v. Czech Republic*), the Committee had to decide whether the application to the author of Act No. 87/1991 amounted to a violation of his right to equality before the law and to equal protection of the law, contrary to article 26 of the Covenant. Under the Act, a person whose properties had been confiscated for political reasons could claim restitution provided, inter alia, that he/she was a Czech/Slovak citizen at the time at which restitution claims could be filed. Following previous jurisprudence the Committee held that, taking into account that the State party was itself responsible for the departure of the author and his family in seeking refuge in another country where he eventually established permanent residence and obtained a new citizenship, it would be incompatible with the Covenant to require the author to satisfy the condition of Czech citizenship for the restitution of his property or alternatively for compensation. Accordingly, it concluded that the application by the domestic courts of the citizenship requirement violated the author's rights under article 26 of the Covenant.

200. In case No. 1158/2003 (*Blaga v. Romania*), the Committee considered that the principle of equality before the law entailed that judgements, once they have become final, can no longer be appealed or reviewed, except in special circumstances when the interests of justice so require, and on a non-discriminatory basis. No legitimate arguments had been adduced that could justify the annulment of the final judgement in the authors' case. The State party itself had acknowledged that the practice of extraordinary appeals by the Procurator General led to legal insecurity and for these reasons had abolished the possibility of such appeals in 2003. The Committee concluded that the Procurator General's appeal in the authors' case and the subsequent 1996 judgement of the Supreme Court, which annulled the final judgement of the Court of Appeal, which had overturned the first instance judgement that discriminated against the authors on the basis of their residence abroad, constituted a violation of the authors' rights under article 26 of the Covenant, read in conjunction with article 2, paragraph 3, of the Covenant.

201. In case No. 1249/2004 (*Joseph et al. v. Sri Lanka*), concerning the refusal to allow the incorporation of a religious order, the authors had supplied an extensive list of other religious bodies which had been provided incorporated status, with objects of the same kind as the authors' Order. The State party had provided no reasons why the authors' Order was differently situated, or otherwise why reasonable and objective grounds existed for distinguishing their claim. Such a differential treatment in the conferral of a benefit by the State had to be provided without discrimination on the basis of religious belief. The failure to do so in the present case thus amounted to a violation of the right in article 26 to be free from discrimination on the basis of religious belief. As to the claim that the Supreme Court determined the application adversely to the authors' Order without either notification of the proceeding or offering an opportunity to be heard, the Committee observed that the notion of equality before the law requires similarly situated individuals to be afforded the same process before the courts, unless objective and reasonable grounds are supplied to justify the differentiation. In the present case, the State party

had not advanced justification for why, in other cases, proceedings were notified to affected parties, whilst in this case they were not. It followed that the Committee found a violation of article 26.

202. In case No. 1314/2004 (*O'Neill and Quinn v. Ireland*), the authors claimed they qualified for early release from prison under the Good Friday Agreement and invoked the situation of other prisoners in similar circumstances who were released. The Committee considered that it could not examine this case outside its political context. It observed that the early release scheme did not create any entitlement to early release, but left it to the discretion of the relevant authorities to decide, in the individual case, whether the person concerned should benefit from the scheme. It noted that the State party justified the exclusion of the authors from the release of prisoners' scheme, by reason of the combined circumstances of the incident in question, its timing (in the context of a breach of a ceasefire), its brutality, and the need to ensure public support for the Good Friday Agreement. The Committee considered that it was not in a position to substitute for the State party's assessment of facts its own views, particularly with respect to a decision that was made nearly 10 years ago, in a political context, and leading up to a peace agreement. Consequently, a majority of Committee members found that the material before of the Committee did not disclose arbitrariness and concluded that the authors' rights under article 26 to equality before the law and to equal protection of the law had not been violated.

F. Remedies called for under the Committee's Views

203. After the Committee has made a finding of a violation of a provision of the Covenant in its Views under article 5, paragraph 4, of the Optional Protocol, it proceeds to ask the State party to take appropriate steps to remedy the violation. Often, it also reminds the State party of its obligation to prevent similar violations in the future. When pronouncing a remedy, the Committee observes that:

> "Bearing in mind that, by becoming a party to the Optional Protocol, the State party has recognized the competence of the Committee to determine whether there has been a violation of the Covenant or not and that, pursuant to article 2 of the Covenant, the State party has undertaken to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the Covenant and to provide an effective and enforceable remedy in case a violation has been established, the Committee wishes to receive from the State party, within 90 days, information about the measures taken to give effect to the Committee's Views."

204. During the period under review the Committee took several decisions regarding remedies.

205. In case No. 1036/2001 (*Faure v. Australia*), regarding a violation of article 2, paragraph 3, read together with article 8, the Committee held that its Views on the merits of the claim constituted sufficient remedy of the violation found.

206. In cases Nos. 812/1998 (*Persaud v. Guyana*), 862/1999 (*Hussain et al. v. Guyana*), 913/2000 (*Chan v. Guyana*) where the Committee found that the automatic and mandatory imposition of the death penalty constituted a violation of article 6, paragraph 1, the Committee declared that the State party was under an obligation to provide the author with an effective remedy.

207. In case No. 1132/2002 (*Chisanga v. Zambia*), involving, inter alia, violations of article 6, the Committee held that the State party was under an obligation to provide the author with a remedy, including as one necessary prerequisite in the particular circumstances, the commutation of the author's death sentence.

208. In case No. 1421/2005 (*Larrañaga v. The Philippines*), involving, inter alia, a violation of article 6, paragraph 1, the Committee declared that the State party was under an obligation to provide the author with an effective remedy, including commutation of his death sentence and early consideration for release on parole.

209. In case No. 907/2000 (*Sirageva v. Uzbekistan*), where the Committee found violations of articles 7 and 14, paragraph 3 (b), read together with article 6 of the Covenant, the Committee declared that the State party was under an obligation to provide the victim with an effective remedy. Noting that the violation of article 6 was rectified by the commutation of the victim's death sentence, the remedy could include consideration of a further reduction of his sentence and compensation.

210. In case No. 889/1999 (*Zheikov v. Russian Federation*), where the Committee found a violation of article 7 read together with article 2, the Committee declared that the author was entitled to an effective remedy, including completion of the investigation into his treatment, if still pending, as well as compensation.

211. In case No. 1250/2004 (*Lalith Rajapakse v. Sri Lanka*), where the Committee found violations of article 2, paragraph 3 (a), in connection with article 7; article 9, paragraphs 1, 2, and 3, as they relate to the circumstances of the author's arrest, alone and together with article 2, paragraph 3; and article 9, paragraph 1, as it relates to his right to security of the person, the Committee recommended that the State party take measures to ensure that: (a) the High Court and Supreme Court proceedings be expeditiously completed; (b) the author be protected from threats and/or intimidation with respect to the proceedings; and (c) the author be granted effective reparation.

212. In cases Nos. 915/2000 (*Ruzmetov v. Uzbekistan*), 959/2000 (*Bazarov v. Uzbekistan*), 1044/2002 (*Shukurova v. Tajikistan*) involving findings of a number of violations under articles 6, 7, 9, 14 and 17, the Committee declared that the State party was under an obligation to provide the author with an effective remedy, including information on the location where her sons were buried, and compensation for the anguish she had suffered.

213. In case No. 985/2001 (*Aliboeva v. Tajikistan*), regarding violations of articles 6, paragraph 2; 7; and 14, paragraphs 1, 3 (d) and (g) and 5, the Committee declared that the State party was under an obligation to provide the author with an appropriate remedy, including compensation. The same recommendation was made in case 1042/2001 (*Boimurodov v. Tajikistan*), involving violations of articles 7; 9, paragraph 3; and 14, paragraphs 3 (b) and (g).

214. In case No. 1208/2003 (*Kurbonov v. Tajikistan*), involving violations of provisions in articles 7, 9 and 14, the Committee decided that the State party was under an obligation to provide the victim with an effective remedy, which should include a retrial with the guarantees enshrined in the Covenant or immediate release, as well as adequate reparation.

215. In case No. 1297/2004 (*Medjnoune v. Algeria*), involving violations of articles 7; 9, paragraphs 1, 2 and 3; and 14, paragraph 3 (c), the Committee decided that the State party was under an obligation to provide the victim with an effective remedy, including a full and thorough investigation into the incommunicado detention and treatment suffered, and appropriate compensation. The State party was further required to initiate criminal proceedings against the persons alleged to be responsible for those violations, and to bring the author's son forthwith before a judge to answer the charges against him or to release him.

216. An effective remedy, including compensation, was also recommended in cases Nos. 1050/2002 (*D. and E. v. Australia*), involving a violation of article 9, paragraph 1; and 1218/2003 (*Platonov v. Russian Federation*), involving a violation of article 9, paragraph 3.

217. In cases Nos. 1126/2002 (*Carranza v. Peru*) and 1058/2002 (*Vargas v. Peru*), involving violations of articles 7; 9, paragraph 1; 10, paragraph 1; and 14, as well as 1125/2002 (*Quispe v. Peru*), concerning violations of articles 9 and 14, the Committee concluded that the State party was under an obligation to provide the authors with an effective remedy and appropriate compensation. It also stated that in the light of the long period the authors had already spent in detention, the State party should give serious consideration to terminating their deprivation of liberty, pending the outcome of the current proceedings against them which should comply with all the guarantees required by the Covenant.

218. In cases Nos. 1152 and 1190/2003 (*Ndong Bee et al. v. Equatorial Guinea*), involving violations of articles 7; 9; 14, paragraph 3; and 2, paragraph 3, the Committee concluded that the State party was required to provide the victims with an effective remedy that entail their immediate release and include adequate compensation, and also to make the same solution available to other detainees and convicted prisoners in the same situation as the authors.

219. In case No. 1196/2003 (*Boucherf v. Algeria*), where the Committee found violations of articles 7 and 9 in connection with the disappearance of the victim, the Committee held that the State party was under an obligation to provide the author with an effective remedy, including a thorough and effective investigation into the disappearance and fate of the author's son, his immediate release if he was still alive, adequate information resulting from its investigation, and adequate compensation for the author and her family for the violations suffered by the author's son. The State party was also under a duty to prosecute criminally, try and punish those held responsible for such violations and to take measures to prevent similar violations in the future. Similar recommendations were made in case No. 992/2001 (*Bousroual v. Algeria*), also concerning the disappearance of a person. In case No. 1196/2003 the Committee added that the State party should not invoke the provisions of the draft amnesty law (*Projet de Charte pour la Paix et la Réconciliation Nationale*) against individuals who invoke the provisions of the Covenant or have submitted or may submit communications to the Committee.

220. Effective remedy, including appropriate compensation, was also recommended in cases Nos. 1100/2002 (*Bandajevsky v. Belarus*), involving a violation of articles 9, paragraph 3 and 4; 10, paragraph 1; and 14, paragraphs 1 and 5; 1184/2003 (*Brough v. Australia*), involving violations of articles 10 and 24, paragraph 1; 1153/2003 (*K.N.L.H. v. Peru*), where the Committee found violations of articles 2, 7, 17 and 24; and 1298/2004 (*Becerra v. Colombia*), involving a violation of article 14.

221. In case No. 1123/2002 (*Correia de Matos v. Portugal*), where the Committee found a violation of the right to defend oneself (art. 14, para. 3 (d)), the Committee considered that the author was entitled to an effective remedy under article 2, paragraph 3 (a). Furthermore, the State party should amend its laws to ensure their conformity with article 14, paragraph 3 (d).

222. In case No. 1070/2002 (*Kouidis v. Greece*), involving a violation of article 14, paragraph 3 (g), the Committee concluded that the State party was under an obligation to provide the author with an effective and appropriate remedy, including the investigation of his claims of ill-treatment, and compensation.

223. In cases Nos. 1009/2001 (*Shchetko v. Belarus*), and 1022/2001 (*Velichkin v. Belarus*), involving a violation of article 19, paragraph 2, the Committee declared that the State party was under an obligation to provide the author with an effective remedy, including compensation amounting to a sum not less than the present value of the fine that had been imposed on the author, and any legal costs paid by the latter.

224. In cases Nos. 1157/2003 (*Coleman v. Australia*), and 1180/2003 (*Bodrožić v. Serbia and Montenegro*), involving a violation of article 19, paragraph 2, the Committee decided that the State party was under an obligation to provide the author with an effective remedy, including quashing of the conviction, restitution of the fine imposed on and paid by the author as well as restitution of court expenses paid by him, and compensation for the breach of his Covenant right.

225. In case No. 1054/2002 (*Kříž v. Czech Republic*), involving a violation of article 26, the Committee held that the State party was under an obligation to provide the author with an effective remedy, which may be compensation if the property cannot be returned. The Committee reiterated that the State party should review its legislation to ensure that all persons enjoy both equality before the law and equal protection of the law.

226. In case No. 1158/2003 (*Blaga v. Romania*), involving a violation of article 26, the State party was under an obligation to provide the authors with an effective remedy, including prompt restitution of their property or compensation therefore.

Notes

[1] *Official Records of the General Assembly, Fifty-second Session, Supplement No. 40* (A/52/40), vol. I, para. 467.

[2] Ibid., para. 469.

[3] Ibid., vol. II, annex VI, sect. K.

CHAPTER VI. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

227. In July 1990, the Committee established a procedure for the monitoring of follow-up to its Views under article 5, paragraph 4, of the Optional Protocol, and created the mandate of the Special Rapporteur for follow-up to Views to this effect. Mr. Ando has been the Special Rapporteur since March 2001 (seventy-first session).

228. In 1991, the Special Rapporteur began to request follow-up information from States parties. Such information has been systematically requested in respect of all Views with a finding of a violation of Covenant rights; 429 Views out of the 547 Views adopted since 1979 concluded that there had been a violation of the Covenant.

229. All attempts to categorize follow-up replies by States parties are inherently imprecise and subjective: it accordingly is not possible to provide a neat statistical breakdown of follow-up replies. Many follow-up replies received may be considered satisfactory, in that they display the willingness of the State party to implement the Committee's recommendations or to offer the complainant an appropriate remedy. Other replies cannot be considered satisfactory because they either do not address the Committee's Views at all or only relate to certain aspects of them. Some replies simply note that the victim has filed a claim for compensation outside statutory deadlines and that no compensation can therefore be paid. Still other replies indicate that there is no legal obligation on the State party to provide a remedy, but that a remedy will be afforded to the complainant on an *ex gratia* basis.

230. The remaining follow-up replies challenge the Committee's Views and findings on factual or legal grounds, constitute much-belated submissions on the merits of the complaint, promise an investigation of the matter considered by the Committee or indicate that the State party will not, for one reason or another, give effect to the Committee's Views.

231. In many cases, the Secretariat has also received information from complainants to the effect that the Committee's Views have not been implemented. Conversely, in rare instances, the petitioner has informed the Committee that the State party had in fact given effect to the Committee's recommendations, even though the State party had not itself provided that information.

232. The present annual report adopts the same format for the presentation of follow-up information as the last annual report. The table below displays a complete picture of follow-up replies from States parties received up to 7 July 2006, in relation to Views in which the Committee found violations of the Covenant. Wherever possible, it indicates whether follow-up replies are or have been considered as satisfactory or unsatisfactory, in terms of their compliance with the Committee's Views, or whether the dialogue between the State party and the Special Rapporteur for follow-up to Views continues. The Notes following a number of case entries convey an idea of the difficulties in categorizing follow-up replies.

233. Follow-up information provided by States parties and by petitioners or their representatives subsequent to the last annual report (A/60/40, vol. I, chap. VI) is set out in annex VII to volume II of the present annual report.

FOLLOW-UP RECEIVED TO DATE FOR ALL CASES OF VIOLATIONS OF THE COVENANT

State party and number of cases with violation	Communication number, author and location	Follow-up response received from State party and location	Satisfactory response	Unsatisfactory response	No follow-up response received	Follow-up dialogue ongoing
Algeria (4)	992/2001, *Boussroual* A/61/40				X	X
	1085/2002, *Tarighi* A/61/40	Not due				
	1196/2003, *Boucherf* A/61/40				X	X
	1297/2004, *Medjnoune* A/61/40	Not due				
Angola (2)	711/1996, *Dias* A/55/40	X A/61/40		X A/61/40		X
	1128/2002, *Marques* A/60/40	X A/61/40		X A/61/40		X
Argentina (1)	400/1990, *Mónaco de Gallichio* A/50/40	X A/51/40				X
Australia (14)	488/1992, *Toonen* A/49/40	X A/51/40	X			
	560/1993, *A.* A/52/40	X A/53/40, A/55/40, A/56/40		X		X
	802/1998, *Rogerson* A/58/40	Finding of a violation was considered sufficient	X			
	900/1999, *C.* A/58/40	X A/58/40, CCPR/C/80/FU1 A/60/40 (annex V to this report)			X	X
	930/2000, *Winata et al.* A/56/40	X CCPR/C/80/FU1 and A/57/40 and A/60/40 (annex V to this report)			X	X
	941/2000, *Young* A/58/40	X A/58/40, A/60/40 (annex V to this report)		X		X
	1011/2002, *Madaferri* A/59/40	X A/61/40	X			
	1014/2001, *Baban et al.* A/58/40	X A/60/40 (annex V to this report)		X		X
	1020/2001, *Cabal and Pasini* A/58/40	X A/58/40, CCPR/C/80/FU1		X[a]		X

State party and number of cases with violation	Communication number, author and location	Follow-up response received from State party and location	Satisfactory response	Unsatisfactory response	No follow-up response received	Follow-up dialogue ongoing
Australia (*cont'd*)	1036/2001, *Faure* A/61/40	X A/61/40				X
	1050/2002, *Rafle and Safdel* A/61/40	Not due				
	1157/2003, *Coleman* A/61/40	Not due				
	1069/2002, *Bakhitiyari* A/59/40	X A/60/40 (annex V to this report)		X		X
	1184/2003, *Brough* A/61/40				X	X
Austria (5)	415/1990, *Pauger* A/57/40	X A/47/40, A/52/40		X		X
	716/1996, *Pauger* A/54/40	X A/54/40, A/55/40, A/57/40 CCPR/C/80/FU1		X*		X
	**Note*: Although the State party has made amendments to its legislation as a result of the Committee's findings, the legislation is not retroactive and the author himself has not been provided with a remedy.					
	965/2001, *Karakurt* A/57/40	X A/58/40, CCPR/C/80/FU1, A/61/40				X
	1086/2002, *Weiss* A/58/40	X A/58/40, A/59/40, CCPR/C/80/FU1, A/60/40, A/61/40				X
	1015/2991, *Perterer* A/59/40	X A/60/40, A/61/40				X
Belarus (10)	780/1997, *Lapsevich* A/55/4				X A/56/40, A/57/40	X
	814/1998, *Pastukhov* A/58/40				X A/59/40	X
	886/1999, *Bondarenko* A/58/40				X A/59/40	X
	887/1999, *Lyankevich* A/58/40				X A/59/40	X
	921/2000, *Dergachev* A/57/40				X	X
	927/2000, *Svetik* A/59/40	X A/60/40 (annex V to this report), A/61/40				X
	1009/2001, *Shchetko* A/61/40	Not due				

State party and number of cases with violation	Communication number, author and location	Follow-up response received from State party and location	Satisfactory response	Unsatisfactory response	No follow-up response received	Follow-up dialogue ongoing
Belarus (*cont'd*)	1022/2001, *Velichkin* A/61/40				X A/61/40	X
	1100/2002, *Bandazhevsky* A/61/40	X A/61/40				X
	1207/2003, *Malakhovsky* A/60/40	X A/61/40		X		X
Bolivia (2)	176/1984, *Peñarrieta* A/43/40	X A/52/40				X
	336/1988, *Fillastre and Bizouarne* A/52/40	X A/52/40	X			
Burkina Faso (1)	1159/2003, *Sankara* A/61/40	X A/61/40				X
Cameroon (3)	458/1991, *Mukong* A/49/40				X A/52/40	X
	630/1995, *Mazou* A/56/40	X A/57/40	X A/59/40			
	1134/2002, *Gorji-Dinka* A/60/40				X	X
Canada (11)	24/1977, *Lovelace* Selected Decisions, vol. 1	X Selected Decisions, vol. 2, annex 1	X			
	27/1978, *Pinkney* Selected Decisions, vol. 1				X	X
	167/1984, *Ominayak et al.* A/45/50	X A/59/40,* A/61/40				X
	Note: According to this report, information was provided on 25 November in 1995 (unpublished). It appears from the Follow-up file that in this response, the State party stated that the remedy was to consist of a comprehensive package of benefits and programmes valued at $45 million and a 95 square mile reserve. Negotiations were still ongoing as to whether the Band should receive additional compensation.					
	359/1989, *Ballantyne and Davidson* A/48/40	X A/59/40*	X			
	Note: According to this report, information was provided on 2 December 1993, but was unpublished. It appears from the Follow-up file that in this response, the State party stated that sections 58 and 68 of the Charter of the French Language, the legislation which was central to the communication, will be modified by Bill 86 (S.Q. 1993, c. 40). The date for the entry into force of the new law was to be around January 1994.					
	385/1989, *McIntyre* A/48/40	X*	X			
	Note: See footnote on Case 359/1989 above.					
	455/1991, *Singer* A/49/40	Finding of a violation was considered sufficient	X			

State party and number of cases with violation	Communication number, author and location	Follow-up response received from State party and location	Satisfactory response	Unsatisfactory response	No follow-up response received	Follow-up dialogue ongoing
Canada *(cont'd)*	469/1991, *Ng* A/49/40	X A/59/40*	X			
	Note: According to this report, information was provided on 3 October in 1994 (unpublished). The State party transmitted the Views of the Committee to the Government of the United States of America and asked it for information concerning the method of execution currently in use in the State of California, where the author faced criminal charges. The Government of the United States of America informed Canada that the law in the State of California currently provides that an individual sentenced to capital punishment may choose between gas asphyxiation and lethal injection. In the event of a future request for an extradition with the possibility of the death penalty, the Views of the Committee in this communication will be taken into account.					
	633/1995, *Gauthier* A/54/40	X A/55/40, A/56/40, A/57/40	X A/59/40			
	694/1996, *Waldman* A/55/40	X A/55/40, A/56/40, A/57/40, A/59/40, A/61/40		X		X
	829/1998, *Judge* A/58/40	X A/59/40, A/60/40	X A/60/40, A/61/40			X* A/60/40
	Note: The Committee decided that it should monitor the outcome of the author's situation and take any appropriate action.					
	1051/2002, *Ahani* A/59/40	X A/60/40, A/61/40		X		X* A/60/40
	Note: The State party went some way to implementing the Views: the Committee has not specifically said implementation is satisfactory.					
Central African Republic (1)	428/1990, *Bozize* A/49/40	X A/51/40	X A/51/40			
Colombia (14)	45/1979, *Suárez de Guerrero* Fifteenth session Selected Decisions, vol. 1	X A/52/40*				X
	Note: In this case the Committee recommended that the State party should take the necessary measures to compensate the husband of Mrs. María Fanny Suárez de Guerrero for the death of his wife and to ensure that the right to life is duly protected by amending the law. The State party stated that the Ministerial Committee set up pursuant to enabling legislation No. 288/1996 recommended that compensation be paid to the author.					
	46/1979, *Fals Borda* Sixteenth session Selected Decisions, vol. 1	X A/52/40*		X		X
	Note: In this case, the Committee recommended adequate remedies and for the State party to adjust its laws in order to give effect to the right set forth in article 9 (4) of the Covenant. The State party stated that given the absence of a specific remedy recommended by the Committee the Ministerial Committee set up pursuant to enabling legislation No. 288/1996 does not recommend that compensation be paid to the victim.					
	64/1979, *Salgar de Montejo* Fifteenth session Selected Decisions, vol. 1	X A/52/40*		X		X
	Note: In this case the Committee recommended adequate remedies and for the State party to adjust its laws in order to give effect to the right set forth in article 14 (5) of the Covenant. Given the absence of a specific remedy recommended by the Committee, the Ministerial Committee set up pursuant to Act No. 288/1996 did not recommend that compensation be paid to the victim.					

State party and number of cases with violation	Communication number, author and location	Follow-up response received from State party and location	Satisfactory response	Unsatisfactory response	No follow-up response received	Follow-up dialogue ongoing
Colombia (*cont'd*)	161/1983, *Herrera Rubio* Thirty-first session Selected Decisions, vol. 2	X A/52/40*				X
	Note: The Committee recommended effective measures to remedy the violations that Mr. Herrera Rubio has suffered and further to investigate said violations, to take action thereon as appropriate and to take steps to ensure that similar violations do not occur in the future. The State party provided compensation to the victim.					
	181/1984, *Sanjuán Arévalo brothers* A/45/40	X A/52/40*		X		X
	Note: The Committee takes this opportunity to indicate that it would welcome information on any relevant measures taken by the State party in respect of the Committee's Views and, in particular, invites the State party to inform the Committee of further developments in the investigation of the disappearance of the Sanjuán brothers. Given the absence of a specific remedy recommended by the Committee the Ministerial Committee set up pursuant to Act No. 288/1996 did not recommend that compensation be paid to the victim.					
	195/1985, *Delgado Paez* A/45/40	X A/52/40*				X
	Note: In accordance with the provisions of article 2 of the Covenant, the State party is under an obligation to take effective measures to remedy the violations suffered by the author, including the granting of appropriate compensation, and to ensure that similar violations do not occur in the future. The State party provided compensation.					
	514/1992, *Fei* A/50/40	X A/51/40*		X		X
	Note: The Committee recommended to provide the author with an effective remedy. In the Committee's opinion, this entails guaranteeing the author's regular access to her daughters, and that the State party ensure that the terms of the judgements in the author's favour are complied with. Given the absence of a specific remedy recommended by the Committee, the Ministerial Committee set up pursuant to Act No. 288/1996 did not recommend that compensation be paid to the victim.					
	563/1993, *Bautista de Arellana* A/52/40	X A/52/40, A/57/40, A/58/40, A/59/40	X			
	612/1995, *Arhuacos* A/52/40				X	X
	687/1996, *Rojas García* A/56/40	X A/58/40, A/59/40				X
	778/1997, *Coronel et al.* A/58/40	X A/59/40				X
	848/1999, *Rodríguez Orejuela* A/57/40	X A/58/40, A/59/40		X		X
	859/1999, *Jiménez Vaca* A/57/40	X A/58/40, A/59/40, A/61/40		X		X
	1298/2004, *Becerra* A/61/40	Not due				
Croatia (1)	727/1996, *Paraga* A/56/40	X A/56/40, A/58/40				X

State party and number of cases with violation	Communication number, author and location	Follow-up response received from State party and location	Satisfactory response	Unsatisfactory response	No follow-up response received	Follow-up dialogue ongoing
Czech Republic (11)*	*Note*: For all of these property cases, see also follow-up to concluding observations for the State party's reply in A/59/40.					
	516/1992, *Simunek et al.* A/50/40	X A/51/40*, A/57/40, A/58/40, A/61/40				X
	Note: One author confirmed that the Views were partially implemented. The others claimed that their property was not restored to them or that they were not compensated.					
	586/1994, *Adam* A/51/40	X A/51/40, A/53/40, A/54/40, A/57/40, A/61/40				X
	765/1997, *Fábryová* A/57/40	X A/57/40, A/58/40, A/61/40				X
	774/1997, *Brok* A/57/40	X A/57/40, A/58/40, A/61/40	X A/61/40			
	747/1997, *Des Fours Walderode* A/57/40	X A/57/40, A/58/40, A/61/40				X
	757/1997, *Pezoldova* A/58/40	X A/60/40 (annex V to this report) A/61/40				X
	823/1998, *Czernin* A/60/40				X A/61/40	X
	857/1999, *Blazek et al.* A/56/40				X A/57/40, A/61/40	X
	945/2000, *Marik* A/60/40				X A/61/40	
	946/2000, *Patera* A/57/40				X A/61/40	X
	1054/2002, *Kriz* A/61/40				X A/61/40	
Democratic Republic of the Congo (14)*	*Note*: See A/59/40 for details of follow-up consultations.					
	16/1977, *Mbenge* Eighteenth session Selected Decisions, vol. 2				X A/61/40	X
	90/1981, *Lapeye* Nineteenth session Selected Decisions, vol. 2				X A/61/40	X
	124/1982, *Muteba* Twenty-second session Selected Decisions, vol. 2				X A/61/40	X
	138/1983, *Mpandanjila et al.* Twenty-seventh session Selected Decisions, vol. 2				X A/61/40	X

State party and number of cases with violation	Communication number, author and location	Follow-up response received from State party and location	Satisfactory response	Unsatisfactory response	No follow-up response received	Follow-up dialogue ongoing
Democratic Republic of the Congo (*cont'd*)	157/1983, *Mpaka Nsusu* Twenty-seventh session Selected Decisions, vol. 2				X A/61/40	X
	194/1985, *Miango* Thirty-first session Selected Decisions, vol. 2				X A/61/40	X
	241/1987, *Birindwa* A/45/40				X A/61/40	X
	242/1987, *Tshisekedi* A/45/40				X A/61/40	X
	366/1989, *Kanana* A/49/40				X A/61/40	X
	542/1993, *Tshishimbi* A/51/40				X A/61/40	X
	641/1995, *Gedumbe* A/57/40				X A/61/40	X
	933/2000, *Adrien Mundyo Bisyo et al.* (68 magistrates) A/58/40				X A/61/40	X
	962/2001, *Marcel Mulezi* A/59/40				X A/61/40	X
	1177/2003, *Wenga and Shandwe* A/61/40				X	X
Dominican Republic (3)	188/1984, *Portorreal* Thirty-first session Selected Decisions, vol. 2	X A/45/40	X A/45/40			
	193/1985, *Giry* A/45/40	X A/52/40, A/59/40		X		X
	449/1991, *Mojica* A/49/40	X A/52/40, A/59/40		X		X
Denmark (1)	1222/2003, *Byaruhunga* A/60/40	X* A/61/40	X			
	**Note:* State party requested a re-opening of consideration of the case.					
Ecuador (5)	238/1987, *Bolaños* A/44/40	X A/45/40	X A/45/40			
	277/1988, *Terán Jijón* A/47/40	X A/59/40*		X		X
	**Note:* According to this report, information was provided on 11 June 1992, but was not published. It appears from the Follow-up file that in this response, the State party merely forwarded copies of two reports of the National Police on the investigation of the crimes in which Mr. Terán Jijón was involved, including the statements he made on 12 March 1986 concerning his participation in such crimes.					

State party and number of cases with violation	Communication number, author and location	Follow-up response received from State party and location	Satisfactory response	Unsatisfactory response	No follow-up response received	Follow-up dialogue ongoing
Ecuador (*cont'd*)	319/1988, *Cañón García* A/47/40				X	X
	480/1991, *Fuenzalida* A/51/40	X A/53/40, A/54/40	X			
	481/1991, *Villacrés Ortega* A/52/40	X A/53/40, A/54/40	X			
Equatorial Guinea (3)	414/1990, *Primo Esono* A/49/40				X	X
	468/1991, *Oló Bahamonde* A/49/40				X	X
	1152 and 1190/2003, *Ndong et al. and Mic Abogo* A/61/40				X	
Finland (5)	265/1987, *Vuolanne* A/44/40	X A/44/40	X			
	291/1988, *Torres* A/45/40	X A/45/40	X A/45/40			
	387/1989, *Karttunen* A/48/40	X A/54/40	X			
	412/1990, *Kivenmaa* A/49/40	X A/54/40	X			
	779/1997, *Äärelä et al.* A/57/40	X A/57/40, A/59/40				X
France (6)	196/1985, *Gueye et al.* A/44/40	X A/51/40	X			
	549/1993, *Hopu et Bessert* A/52/40	X A/53/40	X			
	666/1995, *Foin* A/55/40	Finding of a violation was considered sufficient	n.a.			
	689/1996, *Maille* A/55/40	Finding of a violation was considered sufficient	n.a.			
	690/1996, *Venier* A/55/40	Finding of a violation was considered sufficient	n.a.			
	691/1996, *Nicolas* A/55/40	Finding of a violation was considered sufficient	n.a.			

State party and number of cases with violation	Communication number, author and location	Follow-up response received from State party and location	Satisfactory response	Unsatisfactory response	No follow-up response received	Follow-up dialogue ongoing
Georgia (5)	623/1995, *Domukovsky* A/53/40	X A/54/40	X			
	624/1995, *Tsiklauri* A/53/40	X A/54/40	X			
	626/1995, *Gelbekhiani* A/53/40	X A/54/40		X		X
	627/1995, *Dokvadze* A/53/40	X A/54/40		X		X
	975/2001, *Ratiani* A/60/40	X A/61/40				X
Greece (1)	1070/2002, *Kouldis* A/61/40	X A/61/40				X
Guyana (9)	676/1996, *Yasseen and Thomas* A/53/40				X A/60/40	X
	728/1996, *Sahadeo* A/57/40				X A/60/40	X
	838/1998, *Hendriks* A/58/40				X A/60/40	X
	811/1998, *Mulai* A/59/40				X A/60/40	X
	812/1998, *Persaud* A/61/40				X	X
	862/1999, *Hussain and Hussain* A/61/40				X	X
	867/1999, *Smartt* A/59/40				X A/60/40	X
	912/2000, *Ganga* A/60/40				X A/60/40	X
	913/2000, *Chan* A/61/40				X	
Hungary (3)	410/1990, *Párkányi* A/47/40	X*		X		X
	Note: Follow-up information referred to in the State party's reply, dated February 1993, (unpublished), indicates that compensation cannot be paid to the author due to lack of specific enabling legislation.					
	521/1992, *Kulomin* A/51/40	X A/52/40				X
	852/1999, *Borisenko* A/58/40	X A/58/40, A/59/40		X		X

State party and number of cases with violation	Communication number, author and location	Follow-up response received from State party and location	Satisfactory response	Unsatisfactory response	No follow-up response received	Follow-up dialogue ongoing
Ireland (1)	819/1998, *Kavanagh* A/56/40	X A/57/40, A/58/40	X A/59/40, A/60/40			
Italy (1)	699/1996, *Maleki* A/54/40	X A/55/40		X		X
Jamaica (97)	92 cases*					X
	*Note: See A/59/40. Twenty-five detailed replies were received, of which 19 indicated that the State party would not implement the Committee's recommendations; in two it promises to investigate; in one it announces the author's release (592/1994 - Clive Johnson - see A/54/40). There were 36 general replies indicating that death sentences have been commuted. No follow-up replies in 31 cases.					
	695/1996, *Simpson* A/57/40	X A/57/40, A/58/40, A/59/40				X
	792/1998, *Higginson* A/57/40				X	X
	793/1998, *Pryce* A/59/40				X	X
	796/1998, *Reece* A/58/40				X	X
	797/1998, *Loban* A/59/40				X	X
	798/1998, *Howell* A/59/40	X A/61/40				
Latvia (1)	884/1999, *Ignatane* A/56/40	X A/57/40	X A/60/40[b]			
Lithuania (2)	836/1998, *Gelazauskas* A/58/40	X A/59/40	X			
	875/1999, *Filipovich* A/58/40	X A/59/40	X			
Libyan Arab Jamahiriya (2)	440/1990, *El-Megreisi* A/49/40				X	X
	1107/2002, *El Ghar* A/60/40				X A/61/40	X
Madagascar (4)	49/1979, *Marais* Eighteenth session Selected Decisions, vol. 2	A/52/40			X*	X
	*Note: According to the Annual Report (A/52/40), the author indicated that he was released. No further information provided.					
	115/1982, *Wight* Twenty-fourth session Selected Decisions, vol. 2	A/52/40			X*	X
	*Note: According to the Annual Report (A/52/40), the author indicated that he was released. No further information provided.					

State party and number of cases with violation	Communication number, author and location	Follow-up response received from State party and location	Satisfactory response	Unsatisfactory response	No follow-up response received	Follow-up dialogue ongoing
Madagascar (*cont'd*)	132/1982, *Jaona* Twenty-fourth session Selected Decisions, vol. 2	A/52/40			X	X
	155/1983, *Hammel* A/42/40 and Selected Decisions, vol. 2	A/52/40			X	X
Mauritius (1)	35/1978, *Aumeeruddy-Cziffra et al.* Twelfth session Selected Decisions, vol. 1	X Selected Decisions, vol. 2, annex I	X			
Namibia (2)	760/1997, *Diergaardt* A/55/40	X A/57/40	X A/57/40			
	919/2000, *Muller and Engelhard* A/57/40	X A/58/40	X A/59/40			
Netherlands (8)	172/1984, *Broeks* A/42/40	X A/59/40*	X			
	Note: According to this report, information was provided on 23 February 1995 (unpublished). The State party indicated that it had retroactively amended its legislation thereby granting the author a satisfactory remedy. It referred to two cases subsequently considered by the Committee in which no violations of the Covenant were found, namely Lei-van de Meer (478/1991) and Cavalcanti Araujo-Jongen (418/1990), as the alleged inconsistency and/or deficiency had been corrected by the retrospective amendment embodied in the Act of 6 June 1991. Thus, as the situation was the same in the Broeks case the amendment embodied in the Act of 6 June 1991 afforded the author sufficient satisfaction.					
	182/1984, *Zwaan-de Vries* A/42/40	X A/59/40*	X			
	Note: According to this report, information was provided on 28 December 1990, but was unpublished. It appears from the Follow-up file that in this response author's counsel indicated that the author had received her benefits covering the two years she was unemployed.					
	305/1988, *van Alphen* A/45/40	X A/46/40	X			
	453/1991, *Coeriel* A/50/40	X A/59/40*	X			
	Note: According to this report, information was provided on 28 March 1995 (unpublished). The State party submitted that although its legislation and policy in the field of the changing of names offer sufficient guarantees to prevent future violations of article 17 of the Covenant, out of respect for the Committee's Views, the Government decided to ask the authors whether they still wish to change their names in line with their applications and if so permission would be granted for such a change to be effected without costs.					
	786/1997, *Vos* A/54/40	X A/55/40		X		X
	846/1999, *Jansen-Gielen* A/56/40	X A/57/40	X A/59/40			
	976/2001, *Derksen* A/59/40	X A/60/40				X
	1238/2003, *Jongenburger Veerman* A/61/40				X	X
New Zealand (1)	1090, *Rameka et al.* A/59/40	X A/59/40	X A/59/40			

State party and number of cases with violation	Communication number, author and location	Follow-up response received from State party and location	Satisfactory response	Unsatisfactory response	No follow-up response received	Follow-up dialogue ongoing
Nicaragua (1)	328/1988, *Zelaya Blanco* A/49/40	X (incomplete) A/56/40, A/57/40, A/59/40				X
Norway (2)	631/1995, *Spakmo* A/55/40	X A/55/40	X			
	1155/2003, *Leirvag* A/60/40	X A/61/40	X A/61/40*			
	Note: Additional follow-up information expected.					
Panama (2)	289/1988, *Wolf* A/47/40	X A/53/40				X
	473/1991, *Barroso* A/50/40	X A/53/40				X
Peru (14)	202/1986, *Atio del Avellanal* A/44/40	X A/52/40, A/59/40				X
	203/1986, *Muñoz Hermosa* A/44/40	X A/52/40, A/59/40				X
	263/1987, *González del Río* A/48/40	X A/52/40, A/59/40				X
	309/1988, *Orihuela Valenzuela* A/48/40	X A/52/40, A/59/40				X
	540/1993, *Celis Laureano* A/51/40				X A/59/40	X
	577/1994, *Polay Campos* A/53/40	X A/53/40, A/59/40				X
	678/1996, *Gutierrez Vivanco* A/57/40				X A/58/40, A/59/40	X
	688/1996, *de Arguedas* A/55/40	X A/58/40, A/59/40	X			
	906/1999, *Vargas-Machuca* A/57/40				X A/58/40, A/59/40	X
	981/2001, *Gomez Casafranca* A/58/40				X A/59/40	X
	1125/2002, *Quispe* A/61/40	X A/61/40				
	1126/2002, *Carranza* A/61/40	X A/61/40				
	1153/2003, *Huaman* A/61/40	X A/61/40				
	1058/2002, *Vargas* A/61/40	X A/61/40				

State party and number of cases with violation	Communication number, author and location	Follow-up response received from State party and location	Satisfactory response	Unsatisfactory response	No follow-up response received	Follow-up dialogue ongoing
Philippines (7)	788/1997, *Cagas* A/57/40	X A/59/40, A/60/40, A/61/40				X
	868/1999, *Wilson* A/59/40	X A/60/40, A/61/40		X		X
	869/1999, *Piandiong et al.* A/56/40	X N/A				
	1077/2002, *Carpo et al.* A/58/40	X A/59/40, A/60/40, A/61/40	X (A/61/40)			
	1110/2002, *Rolando* A/60/40	X A/61/40	X (A/61/40)			
	1167/2003, *Ramil Rayos* A/59/40	X A/61/40	X (A/61/40)			
	1089/2002, *Rouse* A/60/40				X	X
	1421/2005, *Larrañaga* A/61/40	Not due				
Poland (1)	1061/2002, *Fijałkowska* A/60/40				X	X
Portugal (1)	1123/2002, *Correia de Matos* A/61/40				X	X
Republic of Korea (6)	518/1992, *Sohn* A/50/40	X A/60/40				X
	574/1994, *Kim* A/54/40	X A/60/40				X
	628/1995, *Park* A/54/40	X A/54/40				X
	878/1999, *Kang* A/58/40	X A/59/40				X
	926/2000, *Shin* A/59/40	X A/60/40				X
	1119/2002, *Lee* A/60/40	X A/61/40				X
Romania (1)	1158/2003, *Blaga* A/60/40				X	X
Russian Federation (8)	770/1997, *Gridin* A/55/40	A/57/40, A/60/40		X		X
	763/1997, *Lantsova* A/57/40	A/58/40, A/60/40		X		X
	888/1999, *Telitsin* A/59/40	X A/60/40				X

State party and number of cases with violation	Communication number, author and location	Follow-up response received from State party and location	Satisfactory response	Unsatisfactory response	No follow-up response received	Follow-up dialogue ongoing
Russian Federation (*cont'd*)	712/1996, *Smirnova* A/59/40	X A/60/40				X
	815/1997, *Dugin* A/59/40	X A/60/40				X
	889/1999, *Zheikov* A/61/40					
	1218/2003, *Platonov* A/61/40	X A/61/40				
Saint Vincent and the Grenadines (1)	806/1998, *Thompson* A/56/40				X A/61/40	X
Serbia and Montenegro (1)	1180/2003, *Bodrozic* A/61/40				X	X
Senegal (1)	386/1989, *Famara Koné* A/50/40	X A/51/40, summary record of 1619th meeting held on 21 October 1997	X			
Sierra Leone (3)	839/1998, *Mansaray et al.* A/56/40	X A/57/40, A/59/40				X
	840/1998, *Gborie et al.* A/56/40	X A/57/40, A/59/40				X
	841/1998, *Sesay et al.* A/56/40	X A/57/40, A/59/40				X
Slovakia (1)	923/2000, *Mátyus* A/57/40	X A/58/40	X			
Spain (12)	493/1992, *Griffin* A/50/40	X A/59/40,* A/58/40				X
	**Note*: According to this report, information was provided in 1995, but was unpublished. It appears from the Follow-up file that in this response, dated 30 June 1995, the State party challenged the Committee's Views.					
	526/1993, *Hill* A/52/40	X A/53/40, A/56/40, A/58/40, A/59/40, A/60/40, A/61/40	X			
	701/1996, *Gómez Vázquez* A/55/40	X A/56/40, A/57/40, A/58/40, A/60/40, A/61/40				X
	864/1999, *Ruiz Agudo* A/58/40				X A/61/40	X
	986/2001, *Semey* A/58/40	X A/59/40, A/60/40, A/61/40				X

State party and number of cases with violation	Communication number, author and location	Follow-up response received from State party and location	Satisfactory response	Unsatisfactory response	No follow-up response received	Follow-up dialogue ongoing
Spain (*cont'd*)	1006/2001, *Muñoz* A/59/40				X A/61/40	
	1007/2001, *Sineiro Fernando* A/58/40	X A/59/40, A/60/40, A/61/40				X
	1073/2002, *Teron Jesús* A/60/40				X A/61/40	X
	1095/2002, *Gomariz* A/60/40				X A/61/40	
	1101/2002, *Alba Cabriada* A/60/40				X A/61/40	X
	1104/2002, *Martinez Fernández* A/60/40				X A/61/40	X
	1211/2003, *Olivero* A/61/40					
Sri Lanka (7)	916/2000, *Jayawardena* A/57/40	X A/58/40, A/59/40, A/60/40, A/61/40				X
	950/2000, *Sarma* A/58/40	X A/59/40, A/60/40				X
	909/2000, *Kankanamge* A/59/40	X A/60/40				X
	1033/2001, *Nallaratnam* A/59/40	X A/60/40				X
	1189/2003, *Fernando* A/60/40	X A/61/40		X (A/61/40)		X
	1249/2004, *Immaculate Joseph, et al.* A/61/40	X A/61/40				X
	1250/2004, *Rajapakse* A/61/40					
Suriname (8)	146/1983, *Baboeram* Twenty-fourth session Selected Decisions, vol. 2	X A/51/40, A/52/40, A/53/40, A/55/40, A/61/40				X
	148-154/1983 *Kamperveen, Riedewald, Leckie, Demrawsingh, Sohansingh, Rahman, Hoost* Twenty-fourth session Selected Decisions, vol. 2	X A/51/40, A/52/40, A/53/40, A/55/40, A/61/40				X

State party and number of cases with violation	Communication number, author and location	Follow-up response received from State party and location	Satisfactory response	Unsatisfactory response	No follow-up response received	Follow-up dialogue ongoing
Tajikistan (8)	964/2001, *Saidov* A/59/40	X A/60/40				X
	973/2001, *Khalilov* A/60/40	X A/60/40 (annex V to this report)				X
	985/2001, *Aliboev* A/61/40				X A/61/40	X
	1096/2002, *Kurbanov* A/59/40	X A/59/40, A/60/40				X
	1117/2002, *Khomidov* A/59/40	X A/60/40				X
	1042/2002, *Boymurudov* A/61/40				X A/61/40	X
	1044/2002, *Nazriev* A/61/40				X	
	1208/2003, *Kurbanov* A/61/40				X	
Togo (4)	422-424/1990, *Aduayom et al.* A/51/40	X A/56/40, A/57/40		X A/59/40		X
	505/1992, *Ackla* A/51/40	X A/56/40, A/57/40		X A/59/40		X
Trinidad and Tobago (24)	232/1987, *Pinto* A/45/40 and 512/1992, *Pinto* A/51/40	X A/51/40, A/52/40, A/53/40		X		X
	362/1989, *Soogrim* A/48/40	X A/51/40, A/52/40, A/53/40, A/58/40			X	X
	434/1990, *Seerattan* A/51/40	X A/51/40, A/52/40, A/53/40		X		X
	447/1991, *Shalto* A/50/40	X A/51/40, A/52/40, A/53/40	X A/53/40			
	523/1992, *Neptune* A/51/40	X A/51/40, A/52/40, A/53/40, A/58/40		X		X
	533/1993, *Elahie* A/52/40				X	X
	554/1993, *La Vende* A/53/40				X	X
	555/1993, *Bickaroo* A/53/40				X	X
	569/1996, *Mathews* A/43/40				X	X

State party and number of cases with violation	Communication number, author and location	Follow-up response received from State party and location	Satisfactory response	Unsatisfactory response	No follow-up response received	Follow-up dialogue ongoing
Trinidad and Tobago (*cont'd*)	580/1994, *Ashby* A/57/40				X	X
	594/1992, *Phillip* A/54/40				X	X
	672/1995, *Smart* A/53/40				X	X
	677/1996, *Teesdale* A/57/40				X	X
	683/1996, *Waves* A/57/40				X	X
	684/1996, *Sahadath* A/57/40				X	X
	721/1996, *Boodoo* A/57/40				X	X
	752/1997, *Henry* A/54/40				X	X
	818/1998, *Sextus* A/56/40				X	X
	845/1998, *Kennedy* A/57/40				X A/58/40	X
	899/1999, *Francis et al.* A/57/40				X A/58/40	X
	908/2000, *Evans* A/58/40				X	X
	928/2000, *Sooklal* A/57/40				X	X
	938/2000, *Girjadat Sieupers et al.* A/59/40				X A/51/40, A/53/40	X
Ukraine (2)	726/1996, *Zheludkov* A/58/40	X A/58/40	X A/59/40			
	781/1997, *Aliev* A/58/40	X A/60/40		X A/60/40		X

State party and number of cases with violation	Communication number, author and location	Follow-up response received from State party and location	Satisfactory response	Unsatisfactory response	No follow-up response received	Follow-up dialogue ongoing
Uruguay (45)	A. [5/1977, *Massera* Seventh session 43/1979, *Caldas* Nineteenth session 63/1979, *Antonaccio* Fourteenth session 73/1980, *Izquierdo* Fifteenth session 80/1980, *Vasiliskis* Eighteenth session 83/1981, *Machado* Twentieth session 84/1981, *Dermit* Seventeenth session 85/1981, *Romero* Twenty-first session 88/1981, *Bequio* Eighteenth session 92/1981, *Nieto* Nineteenth session 103/1981, *Scarone* Twentieth session 105/1981, *Cabreira* Nineteenth session 109/1981, *Volturet* Twenty-first session 123/1982, *Lluberas* Twenty-first session] B. [103/1981, *Scarone* 73/1980, *Izquierdo* 92/1981, *Nieto* 85/1981, *Romero*] C. [63/1979, *Antonaccio* 80/1980, *Vasiliskis* 123/1982, *Lluberas*]	X 43 follow-up replies received in A/59/40*	X (relating to cases D and G)	X (relating to cases A, B, C, E, F)		X

State party and number of cases with violation	Communication number, author and location	Follow-up response received from State party and location	Satisfactory response	Unsatisfactory response	No follow-up response received	Follow-up dialogue ongoing
Uruguay (*cont'd*)	D. [57/1979, *Martins* Fifteenth session 77/1980, *Lluberas/Antin* Eighteenth session 106/1981, Eighteenth session 108/1981, *Nuñez* Nineteenth session] E. [4/1977, *Ramirez* Fourth session 6/1977, *Sequeira* Sixth session 8/1977, *Perdomo* Ninth session 9/1977, *Valcada* Eighth session 10/1977, *Gonzalez* Fifteenth session 11/1977, *Motta* Tenth session 25/1978, *Massiotti* Sixteenth session 28/1978, *Weiss* Eleventh session 32/1978, *Touron* Twelfth session 33/1978, *Carballal* Twelfth session 37/1978, *De Boston* Twelfth session 44/1979, *Pietraroia* Twelfth session 52/1979, *Lopez Burgos* Thirteenth session 56/1979, *Celiberti* Thirteenth session					

State party and number of cases with violation	Communication number, author and location	Follow-up response received from State party and location	Satisfactory response	Unsatisfactory response	No follow-up response received	Follow-up dialogue ongoing
Uruguay (*cont'd*)	66/1980, *Schweizer* Seventeenth session 70/1980, *Simones* Fifteenth session 74/1980, *Estrella* Eighteenth session 110/1981, *Viana* Twenty-first session 139/1983, *Conteris* Twenty-fifth session 147/1983, *Gilboa* Twenty-sixth session 162/1983, *Acosta* Thirty-fourth session] F. [30/1978, *Bleier* Fifteenth session 84/1981, *Barbato* Seventeenth session 107/1981, *Quinteros* Nineteenth session] G. 34/1978, *Silva* Twelfth session					
	**Note*: Follow-up information was provided on 17 October 1991 (unpublished). The list of cases under A: the State party submitted that on 1 March 1985, the competence of the civil courts was re-established. The amnesty law of 8 March 1985 benefited all the individuals who had been involved as authors, accomplices or accessory participants of political crimes or crimes committed for political purposes, from 1 January 1962 to 1 March 1985. The law allowed those individuals held responsible of intentional murder to have either their sentence reviewed or their conviction reduced. Pursuant to article 10 of the Law on National Pacification all the individuals imprisoned under "measures of security" were released. In cases subjected to review, appellate courts either acquitted or condemned the individuals. By virtue of Law 15.783 of 20 November 1985 all the individuals who had previously held a public office were entitled to resume their jobs. On cases under B: it states that these individuals were pardoned by virtue of Law 15.737 and released on 10 March 1985. On cases under C: these individuals were released on 14 March 1985; their cases were included under law 15.737. On cases under D: the amnesty law ended, from the date on which it entered into force, the regimes for the surveillance of individuals, pending arrest warrants, the restrictions to enter or exit the country; and every official inquiry into crimes covered by the amnesty. From 8 March 1985, the issuance of travel documents was no longer subjected to any restriction. Samuel Liechtenstein, after his return to Hungary, resumed his position as the Head of the University of the Republic. On cases under E: from 1 March 1985, the possibility to file an action for damages was open to all of the victims of human rights violations which occurred during the de facto government. From 1985 up to date, 36 suits in damages have been filed, 22 of them are related to arbitrary detention and 12 to the restitution of property. The Government settled Mr. Lopez's case on 21 November 1990, by paying him US$ 200,000. The suit filed by Ms. Lilian Celiberti is still pending. Besides the above-mentioned cases, no other victim has filed a law-suit against the State claiming compensation. On cases under F: on 22 December 1986, the Congress passed Law 15.848, known as "the expiration of the State powers to prosecute". The law extinguished the power of State authorities to prosecute crimes committed by military or police agents for political purposes or in the execution of orders given to them by their superiors before 1 March 1985. All pending proceedings were discontinued. On 16 April 1989, the law was confirmed by referendum. The law ordered the investigating judges to send reports submitted to the judiciary about victims of disappearances to the Executive, for the latter to initiate inquiries.					

State party and number of cases with violation	Communication number, author and location	Follow-up response received from State party and location	Satisfactory response	Unsatisfactory response	No follow-up response received	Follow-up dialogue ongoing
Uruguay (*cont'd*)	159/1983, *Cariboni* A/43/40 Selected Decisions vol. 2				X	X
	322/1988, A/51/40 *Rodriguez* A/49/40				X A/51/40	X
Uzbekistan (8)	907/2000, *Siragev* A/61/40	X A/61/40				
	911/2000, *Nazarov* A/59/40	X A/60/40		X		X
	915/2000, *Razmatov* A/61/40				X	X
	917/2000, *Arutyunyan* A/59/40	X A/60/40		X A/60/40		X
	931/2000, *Hudoyberganova* A/60/40	X A/60/40		X A/60/40		
	971/2001, *Arutyunian* A/60/40	X A/60/40 (annex V to this report)				X
	911/2000, *Nazarov* A/59/40	X A/60/40				X
	959/2000, *Bazarov* A/61/40	Not due				
Venezuela (1)	156/1983, *Saldrano* A/41/40 Selected Decisions vol.. 2	X A/59/40*		X		X
	Note: According to this report, information was provided in 1995 (unpublished). In its response, the State party stated that it had failed to contact the author's sister, that the author had not initiated proceedings for compensation from the State party. It made no reference to any investigation carried out by the State, as requested by the Committee.					
Zambia (7)	314/1988, *Bwalya* A/48/40	X A/59/40*	X			
	Note: According to this report, information was provided in 1995 (unpublished). The State party stated on 12 July 1995 that compensation had been paid to the author, that he had been released and that the matter was closed.					
	326/1988, *Kalenga* A/48/40	X A/59/40*	X			
	Note: According to this report, information was provided in 1995 (unpublished). The State party stated that compensation would be paid to the author. In a subsequent letter from the author, dated 4 June 1997, he states that he was unsatisfied with the sum offered and requested the Committee to intervene. The Committee replied that it was not within its remit to challenge, contest or re-evaluate the amount of compensation that was offered and that it would decline to intervene with the State party.					
	390/1990, *Lubuto* A/51/40				X	X

State party and number of cases with violation	Communication number, author and location	Follow-up response received from State party and location	Satisfactory response	Unsatisfactory response	No follow-up response received	Follow-up dialogue ongoing
Zambia (*cont'd*)	768/1997, *Mukunto* A/54/40	X A/56/40, A/57/40, A/59/40 CCPR/C/80/FU1	X A/59/40			
	821/1998, *Chongwe* A/56/40	X A/56/40, A/57/40, A/59/40, A/61/40				X
	856/1999, *Chambala* A/58/40				X	X
	1132/2002, *Chisanga* A/61/40	X A/61/40				X

Notes

[a] In CCPR/C/80/FU1 the State party's response is set out. It submitted that it is unusual for two persons to share cells and that it has asked the Victorian police to take the necessary steps to ensure that a similar situation does not arise again. It does not accept that the authors are entitled to compensation. The Committee considered that this case should not be considered any further under the follow-up procedure.

[b] The Committee decided that this case should be considered no further under the follow-up procedure.

CHAPTER VII. FOLLOW-UP TO CONCLUDING OBSERVATIONS

234. In chapter VII of its annual report for 2003 (A/58/40, vol. I), the Committee described the framework that it has set out for providing for more effective follow-up, subsequent to the adoption of the concluding observations in respect of States parties' reports submitted under article 40 of the Covenant. In chapter VII of its last annual report (A/60/40, vol. I), an updated account of the Committee's experience in this regard over the last year was provided. The current chapter again updates the Committee's experience to 1 August 2006.

235. Over the period covered by the present annual report, Mr. Rafael Rivas Posada continued to act as the Committee's Special Rapporteur for follow-up to concluding observations. At the Committee's eighty-fifth, eighty-sixth and eighty-seventh sessions, he presented progress reports to the Committee on intersessional developments and made recommendations which prompted the Committee to take appropriate decisions on a State-by-State basis.

236. For all reports of States parties examined by the Committee under article 40 of the Covenant over the last year, the Committee has identified, according to its developing practice, a limited number of priority concerns, with respect to which it seeks the State party's response, within a period of a year, on the measures taken to give effect to its recommendations. The Committee welcomes the extent and depth of cooperation under this procedure by States parties, as may be observed from the following comprehensive table. Over the reporting period, since 1 August 2005, 14 States parties (Albania, Belgium, Benin, Colombia, El Salvador, Kenya, Mauritius, Philippines, Poland, Serbia and Montenegro, Sri Lanka, Tajikistan, Togo and Uganda) have submitted information to the Committee under the follow-up procedure. Since the follow-up procedure was instituted in March 2001, only 11 States parties (Equatorial Guinea, Greece, Iceland, Israel, Mali, Moldova, Namibia, Suriname, the Gambia, Uzbekistan and Venezuela) have failed to supply follow-up information that has fallen due. The Committee reiterates that it views this procedure as a constructive mechanism by which the dialogue initiated with the examination of a report can be continued, and which serves to simplify the process of the next periodic report on the part of the State party.

237. The table below details the experience of the Committee over the last year. Accordingly, it contains no reference to those States parties with respect to which the Committee, upon assessment of the follow-up responses provided to it, decided to take no further action prior to the period covered by this report.

State party	Date information due	Date reply received	Further action
Seventy-first session (March 2001)			
Venezuela Third periodic report examined	6 April 2002 Paras. 6, 7, 8, 9, 10, 11, 12 to 14	19 September 2002 (partial reply with respect to paras. 6, 7, 10, 11, 12 to 14)	On 3 January 2003 a complete response was requested to supplement the partial reply.
		7 May 2003 (further partial reply with respect to paras. 9, 10, 12 to 14)	On 10 December 2003 a complete response was requested to supplement the further partial reply.
		16 April and 24 June 2004 (further partial reply with respect to paras. 9, 12 to 14)	On 5 October 2004 a complete response was requested to supplement the further partial reply.
		20 July 2004 (further partial reply with respect to paras. 12 to 14)	A reminder was dispatched on 11 October 2005. At its eighty-fifth session, the Special Rapporteur held consultations with representatives of the State party, who informed him that a date for submission of the fourth periodic report, overdue, has not yet been scheduled. Last reminder was dispatched on 6 July 2006. During the eighty-seventh session the Special Rapporteur held consultations with the Permanent Representative of the State party who informed him that the Government was preparing a follow-up reply which would be submitted to the Committee soon. Consultations have been scheduled for the eighty-eighth session.
Seventy-second session (July 2001) (no outstanding State party replies)			
Seventy-third session (October 2001) (no outstanding State party replies)			
Seventy-fourth session (March 2002) (no outstanding State party replies)			

State party	Date information due	Date reply received	Further action
Seventy-fifth session (July 2002)			
Republic of Moldova Initial report examined	25 July 2003 Paras. 8, 9, 11 and 13	-	After two reminders had failed to elicit a response, the Special Rapporteur met with a representative of the State party's delegation in New York at the Committee's eightieth session. The delegation undertook to submit the next periodic report as scheduled by 1 August 2004, and that follow-up information would be sent to the Committee in the event that it became available earlier. At the Committee's eighty-second session, a meeting was again held with a representative of the State party. Second periodic report, overdue, remains to be submitted. At its eighty-sixth session in New York, the Special Rapporteur held consultations with a representative of the State party, who elaborated on the difficulties faced by the Republic of Moldova to prepare its second periodic report. The State party reported that a new commission was created to prepare human rights reports, and requested an extension of the deadline until the end of 2006. The State party could request technical assistance from the Secretariat.

State party	Date information due	Date reply received	Further action
Seventy-fifth session (July 2002) (cont'd)			
Republic of Moldova *(cont'd)*			By note verbale of 28 March 2006, the State party informed the Special Rapporteur that by decision No. 225 of 1 March 2006, the National Committee responsible for the elaboration of initial and periodic reports was created, and that the second periodic report and follow-up replies would be elaborated till the end of 2006. The State party requested the Committee's consent to merge these two reports. At its eighty-seventh session the Committee decided to grant the State party's request.
Seventy-sixth session (October 2002)			
Togo Third periodic report examined	4 November 2003 Paras. 9, 10, 12 to 14 and 20	5 March 2003 (partial reply with respect to death penalty (para. 10), torture and ill-treatment of detainees (para. 12), reform of the Penal Code (para. 13), extrajudicial executions (para. 14) and rights of civil society (para. 20))	A complete response was requested to supplement the partial reply. At its eighty-second session, the Special Rapporteur held consultations with representatives of the State party who supplied additional information and undertook to supply a complete response. A reminder was dispatched. Fourth periodic report should have been submitted by 1 November 2004.
		7 November 2005 (partial reply)	At its eighty-fifth session, the Special Rapporteur requested a meeting with representatives of the State party. No answer has been received. A complete response (including para. 13) was requested. Last reminder was dispatched on 6 July 2006. Consultations have been scheduled for the eighty-eighth session.

State party	Date information due	Date reply received	Further action
Seventy-seventh session (March 2003)			
Mali	3 April 2004	-	Two reminders were sent.
Second periodic report examined	Paras. 10 (a) and (d), 11 and 12		At its eighty-fifth session, the Special Rapporteur held consultations with representatives of the State party, who informed him that an Inter-ministerial Commission was created in order to prepare follow-up replies, which would be submitted to the Committee as soon as possible. On 6 July 2006, the Special Rapporteur wrote to the Permanent Representative recalling that follow-up replies remain to be submitted. The Special Rapporteur proposed a meeting. No answer from the State party was received. Consultations have been scheduled for the eighty-eighth session.
El Salvador	7 August 2004	12 November 2003 (partial reply)	A complete response was requested to supplement the partial replies. A reminder was dispatched.
Third, fourth and fifth periodic reports examined	Paras. 7, 8 ,12, 13 and 18	Paras. 8 (military courts), 12 (right to life (art. 6) and torture, cruel, inhuman or degrading treatment and abuse of authority)	
		22 December 2003 (further partial reply) Paras. 13 (independence of the Procurator) and 18 (criminalization of torture)	At its eighty-fifth session, the Special Rapporteur held consultations with representatives of the State party, who informed him that consultations have been held between the State party's institutions in order to submit follow-up replies as soon as possible. Last reminder was dispatched on 21 February 2006.

State party	Date information due	Date reply received	Further action
Seventy-seventh session (March 2003) (cont'd)			
El Salvador (*cont'd*)		27 March 2006 (complete reply)	At its eighty-sixth session, the Special Rapporteur held consultations with a representative of the State party.
		Para. 7 (investigations on the killing of Mgr. Oscar Romero)	At its eighty-sixth session, the Committee decided to take no further action.
Seventy-eighth session (October 2003)			
Israel	7 August 2004	-	A reminder was dispatched.
Second periodic report examined	Paras. 13, 15, 16, 18 and 21		At its eighty-fifth session, the Special Rapporteur held consultations with representatives of the State party, who reported that follow-up replies will be submitted in the future. On 6 July 2006, the Special Rapporteur wrote to the Permanent Representative to recall that follow-up replies remain to be submitted. The Special Rapporteur proposed a meeting. No answer from the State party was received. Consultations have been scheduled for the eighty-eighth session.
Seventy-ninth session (October 2003)			
Philippines	7 November 2004	7 July 2005	At its eighty-fifth session, the Committee decided to take no further action.
Sri Lanka	7 November 2004	24 October 2005 (partial reply with respect to paras. 8 and 10)	A reminder was dispatched on 11 October 2005.
Fourth and fifth periodic reports examined	Paras. 8, 9, 10 and 18		At its eighty-fifth session, the Special Rapporteur met with a representative of the State party who submitted a written reply.

State party	Date information due	Date reply received	Further action
Seventy-ninth session (October 2003) (cont'd)			
Sri Lanka (*cont'd*)			A complete response to supplement the partial reply, including on paras. 8 and 10 was requested. Last reminder was dispatched on 6 July 2006. Consultations have been scheduled for the eighty-eighth session.
Colombia Fifth periodic report examined	1 April 2005 Paras. 10, 11 and 18	14 October 2005 Complete reply (defenders)	A reminder was dispatched on 11 October 2005. At its eighty-fifth session, the Special Rapporteur held consultations with the State party. At its eighty-sixth session, the Committee decided to take no further action.
Eightieth session (March 2004)			
Suriname Examination of the situation in the absence of a report	1 April 2005 Paras. 11 and 14		Three reminders have been dispatched, the last one on 22 February 2006. At its eighty-sixth session, the Special Rapporteur held consultations with a representative of the State party, who indicated that a team of legal experts had been tasked with working on follow-up issues. The representative indicated that they will try to submit follow-up replies by the end of June 2006. Last reminder was dispatched on 6 July 2006. Consultations have been scheduled for the eighty-eighth session.

State party	Date information due	Date reply received	Further action
Eightieth session (March 2004) (cont'd)			
Uganda Initial report examined	1 April 2005 Paras. 10, 12 and 17	25 May 2004 (partial reply)	A complete response was requested within the applicable one-year time frame to supplement the partial reply. Two reminders have been dispatched. At its eighty-fifth session, the Special Rapporteur requested a meeting with a representative of the State party. No positive answer has been received. At the eighty-sixth session, the Special Rapporteur held consultations with a representative of the State party, who informed him that a reply on outstanding issues would be submitted by July 2006.
		A reply was received on 25 July 2006, which will be considered at the eighty-eighth session	Last reminder was dispatched on 6 July 2006.
Eighty-first session (July 2004)			
Belgium Fourth periodic report examined	29 July 2005 Paras. 12, 16 and 27	9 December 2005 (complete reply)	At its eighty-sixth session, the Committee decided to take no further action.
Equatorial Guinea Situation examined in the absence of a report[1]			The initial report, overdue, should have been submitted by 1 August 2004. Consultations have been scheduled for the eighty-eighth session.

State party	Date information due	Date reply received	Further action
Eighty-first session (July 2004) (cont'd)			
The Gambia Situation examined in the absence of a report[2]			The Committee requested the State party to provide its replies to its concluding observations by 31 December 2002. Replies have not yet been received. Consultations have been scheduled for its eighty-eighth session.
Namibia Initial report examined	29 July 2005 Paras. 9 and 11	-	Three reminders were dispatched, the last one on 6 July 2006. Consultations have been scheduled for its eighty-eighth session.
Serbia and Montenegro Initial report examined	29 July 2005 Paras. 11, 14 and 18	4 November 2004 (on Kosovo) and 24 November 2004 (confirming further replies to come within a one-year time frame)	-
		11 July 2005 (complete reply)	At its eighty-sixth session, the Committee decided to take no further action.
Eighty-second session (October 2004)			
Albania Initial report examined	4 November 2005 Paras. 11, 13 and 16	2 November 2005 (partial reply with respect to paras. 16 and 13)	A complete response to supplement the partial reply, including on paras. 13 and 16, was requested to the State party. Last reminder was dispatched on 6 July 2006. Consultations have been scheduled for its eighty-eighth session.
Benin Initial report examined	4 November 2005 Paras. 11, 15 and 17		A reminder was dispatched on 22 February 2006. On 16 March 2006, the Special Rapporteur requested a meeting with representatives of the State party.
		24 March 2006 (complete reply)	At its eighty-sixth session, the Committee decided to take no further action.

State party	Date information due	Date reply received	Further action
Eighty-second session (October 2004) (cont'd)			
Poland Third periodic report examined	4 November 2005 Paras. 8, 9 and 17	27 October 2005 (complete reply)	At its eighty-sixth session, the Committee decided to take no further action.
Eighty-third session (March 2005)			
Greece Initial report examined	31 March 2006 Paras. 9, 10 (b) and 11	-	A reminder was dispatched on 6 July 2006.
Iceland Fourth periodic report examined	31 March 2006 Para. 11	-	A reminder was dispatched on 6 July 2006.
Kenya Second periodic report examined	31 March 2006 Paras. 10, 16, 18 and 20	12 June 2006	At its eighty-seventh session, the Committee decided to take no further action.
Mauritius Fourth periodic report examined	31 March 2006 Paras. 10, 13 and 16	5 April 2006	At its eighty-seventh session, the Committee decided to take no further action.
Uzbekistan Second periodic report examined	31 March 2006 Paras. 7 to 10, 13, 15 and 17	-	A reminder will be dispatched.
Eighty-fourth session (July 2005)			
Tajikistan Initial report examined	21 July 2006 Paras. 7, 12, 17 and 21	12 June 2006	In translation. The State party's reply will be considered at its eighty-eighth session.
Slovenia Second periodic report examined	24 July 2006 Paras. 11 and 16	-	A reminder will be dispatched.
Thailand Initial report examined	28 July 2006 Paras. 13, 15 and 21	-	A reminder will be dispatched.

State party	Date information due	Date reply received	Further action
Eighty-fourth session (July 2005) (cont'd)			
Syrian Arab Republic Second periodic report examined	27 July 2006 Paras. 5, 8, 10 and 17	-	A reminder will be dispatched.
Yemen Third periodic report examined	20 July 2006 Paras. 6 to 13 and 15	-	A reminder will be dispatched.
Eighty-fifth session (October 2005)			
Brazil Initial periodic report examined	1 November 2006 Paras. 6, 12, 16 and 18	-	
Canada Third periodic report examined	3 November 2006 Paras. 12, 13, 14 and 18		
Italy Third periodic report examined	29 October 2006 Paras. 10, 11, 15, 17 and 20		
Paraguay Initial periodic report examined	1 November 2006 Paras. 7, 12, 17 and 21		
Eighty-sixth session (March 2006)			
Democratic Republic of the Congo Third periodic report examined	25 March 2007 Paras. 9, 10, 15 and 24		
Hong Kong Special Administrative Region (China) Second periodic report examined	1 April 2007 Paras. 9, 13, 15 and 18		

State party	Date information due	Date reply received	Further action
Eighty-sixth session (March 2006) (cont'd)			
Saint Vincent and the Grenadines			
Examination of the situation in the absence of a report.			

Notes

[1] Pursuant to rule 70, of its rules of procedure, the Committee decided to make public the provisional concluding observations on Equatorial Guinea adopted and transmitted to the State party during its seventy-fifth session.

[2] Pursuant to rule 70, of its rules of procedure, the Committee decided to make public the provisional concluding observations on the Gambia adopted and transmitted to the State party during its seventy-fifth session.

Annex I

STATES PARTIES TO THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS AND TO THE OPTIONAL PROTOCOLS AND STATES WHICH HAVE MADE THE DECLARATION UNDER ARTICLE 41 OF THE COVENANT AS AT 31 JULY 2006

State party	Date of receipt of the instrument of ratification	Date of entry into force
A. States parties to the International Covenant on Civil and Political Rights (157)		
Afghanistan	24 January 1983[a]	24 April 1983
Albania	4 October 1991[a]	4 January 1992
Algeria	12 September 1989	12 December 1989
Angola	10 January 1992[a]	10 April 1992
Argentina	8 August 1986	8 November 1986
Armenia	23 June 1993[a]	[b]
Australia	13 August 1980	13 November 1980
Austria	10 September 1978	10 December 1978
Azerbaijan	13 August 1992[a]	[b]
Bangladesh	7 September 2000	7 December 2000
Barbados	5 January 1973[a]	23 March 1976
Belarus	12 November 1973	23 March 1976
Belgium	21 April 1983	21 July 1983
Belize	10 June 1996[a]	10 September 1996
Benin	12 March 1992[a]	12 June 1992
Bolivia	12 August 1982[a]	12 November 1982
Bosnia and Herzegovina	1 September 1993[c]	6 March 1992
Botswana	8 September 2000	8 December 2000
Brazil	24 January 1992[a]	24 April 1992
Bulgaria	21 September 1970	23 March 1976
Burkina Faso	4 January 1999[a]	4 April 1999
Burundi	9 May 1990[a]	9 August 1990
Cambodia	26 May 1992[a]	26 August 1992
Cameroon	27 June 1984[a]	27 September 1984
Canada	19 May 1976[a]	19 August 1976
Cape Verde	6 August 1993[a]	6 November 1993
Central African Republic	8 May 1981[a]	8 August 1981
Chad	9 June 1995[a]	9 September 1995
Chile	10 February 1972	23 March 1976
Colombia	29 October 1969	23 March 1976

State party	Date of receipt of the instrument of ratification	Date of entry into force
Congo	5 October 1983[a]	5 January 1984
Costa Rica	29 November 1968	23 March 1976
Côte d'Ivoire	26 March 1992[a]	26 June 1992
Croatia	12 October 1992[c]	8 October 1991
Cyprus	2 April 1969	23 March 1976
Czech Republic	22 February 1993[c]	1 January 1993
Democratic People's Republic of Korea	14 September 1981[a]	14 December 1981
Democratic Republic of the Congo	1 November 1976[a]	1 February 1977
Denmark	6 January 1972	23 March 1976
Djibouti	5 November 2002[a]	5 February 2003
Dominica	17 June 1993[a]	17 September 1993
Dominican Republic	4 January 1978[a]	4 April 1978
Ecuador	6 March 1969	23 March 1976
Egypt	14 January 1982	14 April 1982
El Salvador	30 November 1979	29 February 1980
Equatorial Guinea	25 September 1987[a]	25 December 1987
Eritrea	22 January 2002[a]	22 April 2002
Estonia	21 October 1991[a]	21 January 1992
Ethiopia	11 June 1993[a]	11 September 1993
Finland	19 August 1975	23 March 1976
France	4 November 1980[a]	4 February 1981
Gabon	21 January 1983[a]	21 April 1983
Gambia	22 March 1979[a]	22 June 1979
Georgia	3 May 1994[a]	[b]
Germany	17 December 1973	23 March 1976
Ghana	7 September 2000	7 December 2000
Greece	5 May 1997[a]	5 August 1997
Grenada	6 September 1991[a]	6 December 1991
Guatemala	6 May 1992[a]	6 August 1992
Guinea	24 January 1978	24 April 1978
Guyana	15 February 1977	15 May 1977
Haiti	6 February 1991[a]	6 May 1991
Honduras	25 August 1997	25 November 1997
Hungary	17 January 1974	23 March 1976
Iceland	22 August 1979	22 November 1979

State party	Date of receipt of the instrument of ratification	Date of entry into force
India	10 April 1979[a]	10 July 1979
Indonesia	23 February 2006	23 May 2006
Iran (Islamic Republic of)	24 June 1975	23 March 1976
Iraq	25 January 1971	23 March 1976
Ireland	8 December 1989	8 March 1990
Israel	3 October 1991[a]	3 January 1992
Italy	15 September 1978	15 December 1978
Jamaica	3 October 1975	23 March 1976
Japan	21 June 1979	21 September 1979
Jordan	28 May 1975	23 March 1976
Kazakhstan[d]	24 January 2006	
Kenya	1 May 1972[a]	23 March 1976
Kuwait	21 May 1996[a]	21 August 1996
Kyrgyzstan	7 October 1994[a]	
Latvia	14 April 1992[a]	14 July 1992
Lebanon	3 November 1972[a]	23 March 1976
Lesotho	9 September 1992[a]	9 December 1992
Liberia	22 September 2004	22 December 2004
Libyan Arab Jamahiriya	15 May 1970[a]	23 March 1976
Liechtenstein	10 December 1998[a]	10 March 1999
Lithuania	20 November 1991[a]	20 February 1992
Luxembourg	18 August 1983	18 November 1983
Madagascar	21 June 1971	23 March 1976
Malawi	22 December 1993[a]	22 March 1994
Mali	16 July 1974[a]	23 March 1976
Malta	13 September 1990[a]	13 December 1990
Mauritania	17 November 2004[a]	17 February 2005
Mauritius	12 December 1973[a]	23 March 1976
Mexico	23 March 1981[a]	23 June 1981
Monaco	28 August 1997	28 November 1997
Mongolia	18 November 1974	23 March 1976
Montenegro[e]		
Morocco	3 May 1979	3 August 1979
Mozambique	21 July 1993[a]	21 October 1993
Namibia	28 November 1994[a]	28 February 1995

State party	Date of receipt of the instrument of ratification	Date of entry into force
Nepal	14 May 1991	14 August 1991
Netherlands	11 December 1978	11 March 1979
New Zealand	28 December 1978	28 March 1979
Nicaragua	12 March 1980[a]	12 June 1980
Niger	7 March 1986[a]	7 June 1986
Nigeria	29 July 1993[a]	29 October 1993
Norway	13 September 1972	23 March 1976
Panama	8 March 1977	8 June 1977
Paraguay	10 June 1992[a]	10 September 1992
Peru	28 April 1978	28 July 1978
Philippines	23 October 1986	23 January 1987
Poland	18 March 1977	18 June 1977
Portugal	15 June 1978	15 September 1978
Republic of Korea	10 April 1990[a]	10 July 1990
Republic of Moldova	26 January 1993[a]	[b]
Romania	9 December 1974	23 March 1976
Russian Federation	16 October 1973	23 March 1976
Rwanda	16 April 1975[a]	23 March 1976
Saint Vincent and the Grenadines	9 November 1981[a]	9 February 1982
San Marino	18 October 1985[a]	18 January 1986
Senegal	13 February 1978	13 May 1978
Serbia[f]	12 March 2001	[a]
Seychelles	5 May 1992[a]	5 August 1992
Sierra Leone	23 August 1996[a]	23 November 1996
Slovakia	28 May 1993[c]	1 January 1993
Slovenia	6 July 1992[c]	25 June 1991
Somalia	24 January 1990[a]	24 April 1990
South Africa	10 December 1998[a]	10 March 1999
Spain	27 April 1977	27 July 1977
Sri Lanka	11 June 1980[a]	11 September 1980
Sudan	18 March 1986[a]	18 June 1986
Suriname	28 December 1976[a]	28 March 1977
Swaziland	26 March 2004[a]	26 June 2004
Sweden	6 December 1971	23 March 1976
Switzerland	18 June 1992[a]	18 September 1992

State party	Date of receipt of the instrument of ratification	Date of entry into force
Syrian Arab Republic	21 April 1969[a]	23 March 1976
Tajikistan	4 January 1999[a]	[b]
Thailand	29 October 1996[a]	29 January 1997
The former Yugoslav Republic of Macedonia	18 January 1994[c]	17 September 1991
Timor-Leste	18 September 2003[a]	18 December 2003
Togo	24 May 1984[a]	24 August 1984
Trinidad and Tobago	21 December 1978[a]	21 March 1979
Tunisia	18 March 1969	23 March 1976
Turkey	15 September 2003	15 December 2003
Turkmenistan	1 May 1997[a]	[b]
Uganda	21 June 1995[a]	21 September 1995
Ukraine	12 November 1973	23 March 1976
United Kingdom of Great Britain and Northern Ireland	20 May 1976	20 August 1976
United Republic of Tanzania	11 June 1976[a]	11 September 1976
United States of America	8 June 1992	8 September 1992
Uruguay	1 April 1970	23 March 1976
Uzbekistan	28 September 1995	[b]
Venezuela (Bolivarian Republic of)	10 May 1978	10 August 1978
Viet Nam	24 September 1982[a]	24 December 1982
Yemen	9 February 1987[a]	9 May 1987
Zambia	10 April 1984[a]	10 July 1984
Zimbabwe	13 May 1991[a]	13 August 1991

Note: In addition to the States parties listed above, the Covenant continues to apply in the Hong Kong Special Administrative Region of China and the Macau Special Administrative Region of China.[§]

B. States parties to the Optional Protocol (105)

State party	Date of receipt of the instrument of ratification	Date of entry into force
Algeria	12 September 1989[a]	12 December 1989
Angola	10 January 1992[a]	10 April 1992
Argentina	8 August 1986[a]	8 November 1986
Armenia	23 June 1993[a]	23 September 1993
Australia	25 September 1991[a]	25 December 1991

State party	Date of receipt of the instrument of ratification	Date of entry into force
Austria	10 December 1987	10 March 1988
Azerbaijan	27 November 2001	27 February 2002
Barbados	5 January 1973[a]	23 March 1976
Belarus	30 September 1992[a]	30 December 1992
Belgium	17 May 1994[a]	17 August 1994
Benin	12 March 1992[a]	12 June 1992
Bolivia	12 August 1982[a]	12 November 1982
Bosnia and Herzegovina	1 March 1995	1 June 1995
Bulgaria	26 March 1992[a]	26 June 1992
Burkina Faso	4 January 1999[a]	4 April 1999
Cameroon	27 June 1984[a]	27 September 1984
Canada	19 May 1976[a]	19 August 1976
Cape Verde	19 May 2000[a]	19 August 2000
Central African Republic	8 May 1981[a]	8 August 1981
Chad	9 June 1995	9 September 1995
Chile	28 May 1992[a]	28 August 1992
Colombia	29 October 1969	23 March 1976
Congo	5 October 1983[a]	5 January 1984
Costa Rica	29 November 1968	23 March 1976
Côte d'Ivoire	5 March 1997	5 June 1997
Croatia	12 October 1995[a]	
Cyprus	15 April 1992	15 July 1992
Czech Republic	22 February 1993[c]	1 January 1993
Democratic Republic of the Congo	1 November 1976[a]	1 February 1977
Denmark	6 January 1972	23 March 1976
Djibouti	5 November 2002[a]	5 February 2003
Dominican Republic	4 January 1978[a]	4 April 1978
Ecuador	6 March 1969	23 March 1976
El Salvador	6 June 1995	6 September 1995
Equatorial Guinea	25 September 1987[a]	25 December 1987
Estonia	21 October 1991[a]	21 January 1992
Finland	19 August 1975	23 March 1976
France	17 February 1984[a]	17 May 1984
Gambia	9 June 1988[a]	9 September 1988
Georgia	3 May 1994[a]	3 August 1994

State party	Date of receipt of the instrument of ratification	Date of entry into force
Germany	25 August 1993	25 November 1993
Ghana	7 September 2000	7 December 2000
Greece	5 May 1997[a]	5 August 1997
Guatemala	28 November 2000	28 February 2001
Guinea	17 June 1993	17 September 1993
Guyana[b]	10 May 1993[a]	10 August 1993
Honduras	7 June 2005	7 September 2005
Hungary	7 September 1988[a]	7 December 1988
Iceland	22 August 1979[a]	22 November 1979
Ireland	8 December 1989	8 March 1990
Italy	15 September 1978	15 December 1978
Kyrgyzstan	7 October 1995[a]	7 January 1996
Latvia	22 June 1994[a]	22 September 1994
Lesotho	7 September 2000	7 December 2000
Libyan Arab Jamahiriya	16 May 1989[a]	16 August 1989
Liechtenstein	10 December 1998[a]	10 March 1999
Lithuania	20 November 1991[a]	20 February 1992
Luxembourg	18 August 1983[a]	18 November 1983
Madagascar	21 June 1971	23 March 1976
Malawi	11 June 1996	11 September 1996
Mali	24 October 2001	24 January 2002
Malta	13 September 1990[a]	13 December 1990
Mauritius	12 December 1973[a]	23 March 1976
Mexico	15 March 2002	15 June 2002
Mongolia	16 April 1991[a]	16 July 1991
Namibia	28 November 1994[a]	28 February 1995
Nepal	14 May 1991[a]	14 August 1991
Netherlands	11 December 1978	11 March 1979
New Zealand	26 May 1989[a]	26 August 1989
Nicaragua	12 March 1980[a]	12 June 1980
Niger	7 March 1986[a]	7 June 1986
Norway	13 September 1972	23 March 1976
Panama	8 March 1977	8 June 1977
Paraguay	10 January 1995[a]	10 April 1995
Peru	3 October 1980	3 January 1981

State party	Date of receipt of the instrument of ratification	Date of entry into force
Philippines	22 August 1989[a]	22 November 1989
Poland	7 November 1991[a]	7 February 1992
Portugal	3 May 1983	3 August 1983
Republic of Korea	10 April 1990[a]	10 July 1990
Romania	20 July 1993[a]	20 October 1993
Russian Federation	1 October 1991[a]	1 January 1992
Saint Vincent and the Grenadines	9 November 1981[a]	9 February 1982
San Marino	18 October 1985[a]	18 January 1986
Senegal	13 February 1978	13 May 1978
Serbia[f]	6 September 2001	6 December 2001
Seychelles	5 May 1992[a]	5 August 1992
Sierra Leone	23 August 1996[a]	23 November 1996
Slovakia	28 May 1993[c]	1 January 1993
Slovenia	16 July 1993[a]	16 October 1993
Somalia	24 January 1990[a]	24 April 1990
South Africa	28 August 2002	28 November 2002
Spain	25 January 1985[a]	25 April 1985
Sri Lanka[a]	3 October 1997	3 January 1998
Suriname	28 December 1976[a]	28 March 1977
Sweden	6 December 1971	23 March 1976
Tajikistan	4 January 1999[a]	4 April 1999
The former Yugoslav Republic of Macedonia	12 December 1994[a]	12 March 1995
Togo	30 March 1988[a]	30 June 1988
Turkmenistan[b]	1 May 1997[a]	1 August 1997
Uganda	14 November 1995	14 February 1996
Ukraine	25 July 1991[a]	25 October 1991
Uruguay	1 April 1970	23 March 1976
Uzbekistan	28 September 1995	28 December 1995
Venezuela (Bolivarian Republic of)	10 May 1978	10 August 1978
Zambia	10 April 1984[a]	10 July 1984

Note: Jamaica denounced the Optional Protocol on 23 October 1997, with effect from 23 January 1998. Trinidad and Tobago denounced the Optional Protocol on 26 May 1998 and re-acceded on the same day, subject to a reservation, with effect from 26 August 1998. Following the Committee's decision in case No. 845/1999 (*Kennedy v. Trinidad and Tobago*) of 2 November 1999, declaring the reservation invalid, Trinidad and Tobago again denounced the Optional Protocol on 27 March 2000, with effect from 27 June 2000.

C. States parties to the Second Optional Protocol, aiming at the abolition of the death penalty (57)

State party	Date of receipt of the instrument of ratification	Date of entry into force
Australia	2 October 1990[a]	11 July 1991
Austria	2 March 1993	2 June 1993
Azerbaijan	22 January 1999[a]	22 April 1999
Belgium	8 December 1998	8 March 1999
Bosnia and Herzegovina	16 March 2001	16 June 2001
Bulgaria	10 August 1999	10 November 1999
Canada	25 November 2005[a]	25 February 2006
Cape Verde	19 May 2000[a]	19 August 2000
Colombia	5 August 1997	5 November 1997
Costa Rica	5 June 1998	5 September 1998
Croatia	12 October 1995[a]	12 January 1996
Czech Republic	15 June 2004	15 September 2004
Cyprus	10 September 1999	10 December 1999
Denmark	24 February 1994	24 May 1994
Djibouti	5 November 2002[a]	5 February 2003
Ecuador	23 February 1993[a]	23 May 1993
Estonia	30 January 2004	30 April 2004
Finland	4 April 1991	11 July 1991
Georgia	22 March 1999[a]	22 June 1999
Germany	18 August 1992	18 November 1992
Greece	5 May 1997[a]	5 August 1997
Hungary	24 February 1994[a]	24 May 1994
Iceland	2 April 1991	11 July 1991
Ireland	18 June 1993[a]	18 September 1993
Italy	14 February 1995	14 May 1995
Liberia	16 September 2005[a]	16 December 2005
Liechtenstein	10 December 1998	10 March 1999
Lithuania	27 March 2002	26 June 2002
Luxembourg	12 February 1992	12 May 1992
Malta	29 December 1994	29 March 1995
Monaco	28 March 2000[a]	28 June 2000
Mozambique	21 July 1993[a]	21 October 1993
Namibia	28 November 1994[a]	28 February 1995
Nepal	4 March 1998	4 June 1998
Netherlands	26 March 1991	11 July 1991

State party	Date of receipt of the instrument of ratification	Date of entry into force
New Zealand	22 February 1990	11 July 1991
Norway	5 September 1991	5 December 1991
Panama	21 January 1993[a]	21 April 1993
Paraguay	18 August 2003	18 November 2003
Portugal	17 October 1990	11 July 1991
Romania	27 February 1991	11 July 1991
San Marino	17 August 2003[a]	17 November 2004
Serbia and Montenegro[e]	6 September 2001[a]	6 December 2001
Seychelles	15 December 1994[a]	15 March 1995
Slovakia	22 June 1999[a]	22 September 1999
Slovenia	10 March 1994	10 June 1994
South Africa	28 August 2002[a]	28 November 2002
Spain	11 April 1991	11 July 1991
Sweden	11 May 1990	11 July 1991
Switzerland	16 June 1994[a]	16 September 1994
The former Yugoslav Republic of Macedonia	26 January 1995[a]	26 April 1995
Timor-Leste	18 September 2003	18 December 2003
Turkey	2 March 2006	2 June 2006
Turkmenistan	11 January 2000[a]	11 April 2000
United Kingdom of Great Britain and Northern Ireland	10 December 1999	10 March 2000
Uruguay	21 January 1993	21 April 1993
Venezuela (Bolivarian Republic of)	22 February 1993	22 May 1993

D. States which have made the declaration under article 41 of the Covenant (48)

State party	Valid from	Valid until
Algeria	12 September 1989	Indefinitely
Argentina	8 August 1986	Indefinitely
Australia	28 January 1993	Indefinitely
Austria	10 September 1978	Indefinitely
Belarus	30 September 1992	Indefinitely

State party	Valid from	Valid until
Belgium	5 March 1987	Indefinitely
Bosnia and Herzegovina	6 March 1992	Indefinitely
Bulgaria	12 May 1993	Indefinitely
Canada	29 October 1979	Indefinitely
Chile	11 March 1990	Indefinitely
Congo	7 July 1989	Indefinitely
Croatia	12 October 1995	Indefinitely
Czech Republic	1 January 1993	Indefinitely
Denmark	23 March 1976	Indefinitely
Ecuador	24 August 1984	Indefinitely
Finland	19 August 1975	Indefinitely
Gambia	9 June 1988	Indefinitely
Ghana	7 September 2000	Indefinitely
Germany	28 March 1976	10 May 2006
Guyana	10 May 1993	Indefinitely
Hungary	7 September 1988	Indefinitely
Iceland	22 August 1979	Indefinitely
Ireland	8 December 1989	Indefinitely
Italy	15 September 1978	Indefinitely
Liechtenstein	10 March 1999	Indefinitely
Luxembourg	18 August 1983	Indefinitely
Malta	13 September 1990	Indefinitely
Netherlands	11 December 1978	Indefinitely
New Zealand	28 December 1978	Indefinitely
Norway	23 March 1976	Indefinitely
Peru	9 April 1984	Indefinitely
Philippines	23 October 1986	Indefinitely
Poland	25 September 1990	Indefinitely
Republic of Korea	10 April 1990	Indefinitely
Russian Federation	1 October 1991	Indefinitely
Senegal	5 January 1981	Indefinitely
Slovakia	1 January 1993	Indefinitely
Slovenia	6 July 1992	Indefinitely
South Africa	10 March 1999	Indefinitely
Spain	30 January 1998	Indefinitely

State party	Valid from	Valid until
Sri Lanka	11 June 1980	Indefinitely
Sweden	23 March 1976	Indefinitely
Switzerland	16 June 2005	16 June 2010
Tunisia	24 June 1993	Indefinitely
Ukraine	28 July 1992	Indefinitely
United Kingdom of Great Britain and Northern Ireland	20 May 1976	Indefinitely
United States of America	8 September 1992	Indefinitely
Zimbabwe	20 August 1991	Indefinitely

Notes

[a] Accession.

[b] In the opinion of the Committee, the entry into force goes back to the date when the State became independent.

[c] Succession.

[d] Prior the receipt of an instrument of ratification by the Secretary-General of the United Nations, the Committee's position has been the following: Although a declaration of succession has not been received, the people within the territory of the State - which constituted part of a former State party to the Covenant - continue to be entitled to the guarantees enunciated in the Covenant in accordance with the Committee's established jurisprudence (see *Official Records of the General Assembly, Forty-ninth Session, Supplement No. 40* (A/49/40), vol. I, paras. 48 and 49).

[e] Montenegro was admitted to membership in the United Nations by General Assembly resolution 60/264 of 28 June 2006. The Secretary-General has not received a notification from the Republic of Montenegro with regard to treaties deposited with him to date. However, the people within the territory of the State - which constituted part of a State party to the Covenant - continue to be entitled to the guarantees enunciated in the Covenant in accordance with the Committee's established jurisprudence.

[f] The Socialist Federal Republic of Yugoslavia ratified the Covenant on 2 June 1971, which entered into force for that State on 23 March 1976. The successor State (Federal Republic of Yugoslavia) was admitted to the United Nations by General Assembly resolution 55/12 of 1 November 2000. According to a subsequent declaration, the Federal Republic of Yugoslavia acceded to the Covenant with effect from 12 March 2001. It is the established practice of the Committee that the people within the territory of a State which constituted part of a former State party to the Covenant continue to be entitled to the guarantees recognized in the Covenant. Following the adoption of the Constitutional Charter of Serbia and Montenegro by the Assembly of the Federal Republic of Yugoslavia on 4 February 2003, the name of the State

of the Federal Republic of Yugoslavia was changed to "Serbia and Montenegro". The membership of the State Union of Serbia and Montenegro in the United Nations, including all organs and organizations of the United Nations system, is continued by the Republic of Serbia on the basis of article 60 of the Constitutional Charter of Serbia and Montenegro, activated by the Declaration of Independence adopted by the National Assembly of Montenegro on 3 June 2006. On 19 June 2006, the Secretary-General received a communication dated 16 June 2006 from the Minister of Foreign Affairs of the Republic of Serbia informing him that (a) the Republic of Serbia continues to exercise its rights and honour its commitments deriving from international treaties concluded by Serbia and Montenegro; (b) the Ministry for Foreign Affairs requests that the Republic of Serbia be considered a party to all international agreements in force, instead of Serbia and Montenegro; and (c) the Government of the Republic of Serbia will perform the functions formerly performed by the Council of Ministers of Serbia and Montenegro as depository for the corresponding multilateral treaties. The Republic of Montenegro was admitted as a Member of the United Nations by General Assembly resolution 60/264 of 28 June 2006.

[g] For information on the application of the Covenant in the Hong Kong Special Administrative Region of China, see *Official Records of the General Assembly, Fifty-first Session, Supplement No. 40* (A/51/40), chap. V, sect. B, paras. 78-85. For information on the application of the Covenant in Macau Special Administrative Region, see ibid., *Fifty-fifth Session, Supplement No. 40* (A/55/40), chap. IV.

[h] Guyana denounced the Optional Protocol on 5 January 1999 and re-acceded on the same day, subject to reservations, with effect from 5 April 1999. Guyana's reservation elicited objections from six States parties to the Optional Protocol.

Annex II

MEMBERSHIP AND OFFICERS OF THE HUMAN RIGHTS COMMITTEE, 2005-2006

A. Membership of the Human Rights Committee

Eighty-fifth to eighty-seventh sessions

Mr. Abdelfattah AMOR*	Tunisia
Mr. Nisuke ANDO*	Japan
Mr. Prafullachandra Natwarlal BHAGWATI*	India
Mr. Alfredo CASTILLERO HOYOS*	Panama
Ms. Christine CHANET*	France
Mr. Maurice GLÈLÈ-AHANHANZO**	Benin
Mr. Edwin JOHNSON LOPEZ**	Ecuador
Mr. Walter KÄLIN*	Switzerland
Mr. Ahmed Tawfik KHALIL**	Egypt
Mr. Rajsoomer LALLAH**	Mauritius
Mr. Michael O'FLAHERTY**	Ireland
Ms. Elisabeth PALM**	Sweden
Mr. Rafael RIVAS POSADA**	Colombia
Sir Nigel RODLEY**	United Kingdom of Great Britain and Northern Ireland
Mr. Ivan SHEARER**	Australia
Mr. Hipólito SOLARI YRIGOYEN*	Argentina
Ms. Ruth WEDGWOOD*	United States of America
Mr. Roman WIERUSZEWSKI*	Poland

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* Term expires on 31 December 2006.

** Term expires on 31 December 2008.

B. Officers

Eighty-fifth to eighty-seventh sessions

The officers of the Committee, elected for a term of two years at the 2254th meeting, on 14 March 2005 (eighty-third session), are the following:

Chairperson:	Ms. Christine Chanet
Vice-Chairpersons:	Mr. Maurice Glèlè-Ahanhanzo Ms. Elisabeth Palm Mr. Hipólito Solari Yrigoyen
Rapporteur:	Mr. Ivan Shearer

Annex III

SUBMISSION OF REPORTS AND ADDITIONAL INFORMATION BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (STATUS AS OF 31 JULY 2006)

State party	Type of report	Date due	Date of submission
Afghanistan	Second periodic	23 April 1989	25 October 1991[a]
Albania	Second periodic	1 November 2008	Not yet due
Algeria	Third periodic	1 June 2000	Not yet received
Angola	Initial/Special	9 April 1993/ 31 January 1994	Not yet received
Argentina	Fourth periodic	31 October 2005	Not yet received
Armenia	Second periodic	1 October 2001	Not yet received
Australia	Fifth periodic	31 July 2005	Not yet received
Austria	Fourth periodic	1 October 2002	21 July 2006
Azerbaijan	Third periodic	1 November 2005	Not yet received
Bangladesh	Initial	6 December 2001	Not yet received
Barbados	Third periodic	11 April 1991	18 July 2006
Belarus	Fifth periodic	7 November 2001	Not yet received
Belgium	Fifth periodic	1 August 2008	Not yet due
Belize	Initial	9 September 1997	Not yet received
Benin	Second periodic	1 November 2008	Not yet due
Bolivia	Third periodic	31 December 1999	Not yet received
Bosnia and Herzegovina	Initial	5 March 1993	30 August 2005
Botswana	Initial	8 December 2001	Not yet received
Brazil	Third periodic	31 October 2009	Not yet due
Bulgaria	Third periodic	31 December 1994	Not yet received
Burkina Faso	Initial	3 April 2000	Not yet received
Burundi	Second periodic	8 August 1996	Not yet received
Cambodia	Second periodic	31 July 2002	Not yet received
Cameroon	Fourth periodic	31 October 2003	Not yet received
Canada	Sixth periodic	31 October 2010	Not yet due
Cape Verde	Initial	5 November 1994	Not yet received
Central African Republic	Third periodic	1 August 2010	Not yet due
Chad	Initial	8 September 1996	Not yet received
Chile	Fifth periodic	28 April 2002	9 February 2006
Colombia	Sixth periodic	1 April 2008	Not yet due

State party	Type of report	Date due	Date of submission
Congo	Third periodic	31 March 2003	Not yet received
Costa Rica	Fifth periodic	30 April 2004	30 May 2006
Côte d'Ivoire	Initial	25 June 1993	Not yet received
Croatia	Second periodic	1 April 2005	Not yet received
Cyprus	Fourth periodic	1 June 2002	Not yet received
Czech Republic	Second periodic	1 August 2005	24 May 2006
Democratic People's Republic of Korea	Third periodic	1 January 2004	Not yet received
Democratic Republic of the Congo	Fourth periodic	1 April 2009	Not yet due
Denmark	Fifth periodic	31 October 2005	Not yet received
Djibouti	Initial	5 February 2004	Not yet received
Dominica	Initial	16 September 1994	Not yet received
Dominican Republic	Fifth periodic	1 April 2005	Not yet received
Ecuador	Fifth periodic	1 June 2001	Not yet received
Egypt	Fourth periodic	1 November 2004	Not yet received
El Salvador	Fourth periodic	1 August 2007	Not yet due
Equatorial Guinea	Initial	24 December 1988	Not yet received[b]
Eritrea	Initial	22 April 2003	Not yet received
Estonia	Third periodic	1 April 2007	Not yet due
Ethiopia	Initial	10 September 1994	Not yet received
Finland	Sixth periodic	1 November 2009	Not yet due
France	Fourth periodic	31 December 2000	Not yet received
Gabon	Third periodic	31 October 2003	Not yet received
Gambia	Second periodic	21 June 1985	Not yet received[b]
Georgia	Third periodic	1 April 2006	Not yet received
Germany	Sixth periodic	1 April 2009	Not yet due
Ghana	Initial	8 February 2001	Not yet received
Greece	Second periodic	1 April 2009	Not yet due
Grenada	Initial	5 December 1992	Not yet received
Guatemala	Third periodic	1 August 2005	Not yet received
Guinea	Third periodic	30 September 1994	Not yet received
Guyana	Third periodic	31 March 2003	Not yet received
Haiti	Initial	30 December 1996	Not yet received
Honduras	Second periodic	24 November 1998	21 February 2005
Hong Kong Special Administrative Region (China)[c]	Third periodic (China)	1 January 2010	Not yet due
Hungary	Fifth periodic	1 April 2007	Not yet due

State party	Type of report	Date due	Date of submission
Iceland	Fifth periodic	1 April 2010	Not yet due
India	Fourth periodic	31 December 2001	Not yet received
Indonesia	Initial	23 May 2007	Not yet due
Iran (Islamic Republic of)	Third periodic	31 December 1994	Not yet received
Iraq	Fifth periodic	4 April 2000	Not yet received
Ireland	Third periodic	31 July 2005	Not yet received
Israel	Third periodic	1 August 2007	Not yet due
Italy	Sixth periodic	31 October 2009	Not yet due
Jamaica	Third periodic	7 November 2001	Not yet received
Japan	Fifth periodic	31 October 2002	Not yet received
Jordan	Fourth periodic	21 January 1997	Not yet received
Kazakhstan	Initial report	24 April 2007	Not yet due
Kenya	Third periodic	1 April 2008	Not yet due
Kuwait	Second periodic	31 July 2004	Not yet received
Kyrgyzstan	Second periodic	31 July 2004	Not yet received
Latvia	Third periodic	1 November 2008	Not yet due
Liberia	Initial	22 December 2005	Not yet received
Lebanon	Third periodic	31 December 1999	Not yet received
Lesotho	Second periodic	30 April 2002	Not yet received
Libyan Arab Jamahiriya	Fourth periodic	1 October 2002	6 December 2005
Liechtenstein	Second periodic	1 September 2009	Not yet due
Lithuania	Third periodic	1 November 2009	Not yet due
Luxembourg	Fourth periodic	1 April 2008	Not yet due
Madagascar	Third periodic	30 July 1992	24 May 2005
Malawi	Initial	21 March 1995	Not yet received
Mali	Third periodic	1 April 2005	Not yet received
Macau Special Administrative Region (China)[c]	Initial (China)	31 October 2001	Not yet received
Malta	Second periodic	12 December 1996	Not yet received
Mauritania	Initial	17 February 2006	Not yet received
Mauritius	Fifth periodic	1 April 2010	Not yet due
Mexico	Fifth periodic	30 July 2002	Not yet received
Monaco	Second periodic	1 August 2006	Not yet due
Mongolia	Fifth periodic	31 March 2003	Not yet received
Montenegro[d]			
Morocco	Sixth periodic	1 November 2008	Not yet due

State party	Type of report	Date due	Date of submission
Mozambique	Initial	20 October 1994	Not yet received
Namibia	Second periodic	1 August 2008	Not yet due
Nepal	Second periodic	13 August 1997	Not yet received
Netherlands	Fourth periodic	1 August 2006	Not yet due
Netherlands (Antilles)	Fourth periodic	1 August 2006	Not yet due
Netherlands (Aruba)	Fifth periodic	1 August 2006	Not yet due
New Zealand	Fifth periodic	1 August 2007	Not yet due
Nicaragua	Third periodic	11 June 1991	Not yet received
Niger	Second periodic	31 March 1994	Not yet received
Nigeria	Second periodic	28 October 1999	Not yet received
Norway	Sixth periodic	1 October 2009	Not yet due
Panama	Third periodic	31 March 1992	Not yet received
Paraguay	Third periodic	31 October 2008	Not yet due
Peru	Fifth periodic	31 October 2003	Not yet received
Philippines	Third periodic	1 November 2006	Not yet due
Poland	Sixth periodic	1 November 2008	Not yet due
Portugal	Fourth periodic	1 August 2008	Not yet due
Republic of Korea	Third periodic	31 October 2003	10 February 2005
Republic of Moldova	Second periodic	1 August 2004	Not yet received
Romania	Fifth periodic	28 April 1999	Not yet received
Russian Federation	Sixth periodic	1 November 2007	Not yet due
Rwanda	Third periodic	10 April 1992	Not yet received
	Special*	31 January 1995	Not yet received
Saint Vincent and the Grenadines	Second periodic	31 October 1991	Not yet received
San Marino	Second periodic	17 January 1992	Not yet received
Senegal	Fifth periodic	4 April 2000	Not yet received
Serbia	Second periodic	1 August 2008	Not yet due
Seychelles	Initial	4 August 1993	Not yet received
Sierra Leone	Initial	22 November 1997	Not yet received
Slovakia	Third periodic	1 August 2007	Not yet due
Slovenia	Third periodic	1 August 2010	Not yet due
Somalia	Initial	23 April 1991	Not yet received
South Africa	Initial	9 March 2000	Not yet received
Spain	Fifth periodic	28 April 1999	Not yet received
Sri Lanka	Fifth periodic	1 November 2007	Not yet due
Sudan	Third periodic/ Special	7 November 2001/ 31 December 2005	28 June 2006

State party	Type of report	Date due	Date of submission
Suriname	Third periodic	1 April 2008	Not yet due
Swaziland	Initial	27 June 2005	Not yet received
Sweden	Sixth periodic	1 April 2007	Not yet due
Switzerland	Third periodic	1 November 2006	Not yet due
Syrian Arab Republic	Fourth periodic	1 August 2009	Not yet due
Tajikistan	Second periodic	31 July 2008	Not yet due
Thailand	Second periodic	1 August 2009	Not yet due
The former Yugoslav Republic of Macedonia	Second periodic	1 June 2000	Not yet received
Timor-Leste	Initial	19 December 2004	Not yet received
Togo	Fourth periodic	1 November 2004	Not yet received
Trinidad and Tobago	Fifth periodic	31 October 2003	Not yet received
Tunisia	Fifth periodic	4 February 1998	Not yet received
Turkey	Initial	16 December 2004	Not yet received
Turkmenistan	Initial	31 July 1998	Not yet received
Uganda	Second periodic	1 April 2008	Not yet due
Ukraine	Sixth periodic	1 November 2005	3 November 2005
United Kingdom of Great Britain and Northern Ireland	Sixth periodic	1 November 2006	Not yet due
United Kingdom of Great Britain and Northern Ireland (Overseas Territories)	Sixth periodic	1 November 2006	Not yet due
United Republic of Tanzania	Fourth periodic	1 June 2002	Not yet received
United States of America	Second and third periodic	1 August 2010	Not yet due
Uruguay	Fifth periodic	21 March 2003	Not yet received
Uzbekistan	Third periodic	1 April 2008	Not yet due
Venezuela (Bolivarian Republic of)	Fourth periodic	1 April 2005	Not yet received
Viet Nam	Third periodic	1 August 2004	Not yet received
Yemen	Fifth periodic	1 July 2009	Not yet due
Zambia	Third periodic	30 June 1998	16 December 2005
Zimbabwe	Second periodic	1 June 2002	Not yet received

Notes

[a] At its fifty-fifth session, the Committee requested the Government of Afghanistan to submit information updating its report before 15 May 1996 for consideration at the fifty-seventh session. No additional information was received. At its sixty-seventh session, the Committee invited Afghanistan to present its report at the sixty-eighth session. The State party asked for a postponement. At the seventy-third session, the Committee decided to postpone consideration of Afghanistan to a later date, pending consolidation of the new Government.

[b] The Committee considered the situation of civil and political rights in the Gambia during its seventy-fifth session in the absence of a report and a delegation. Provisional concluding observations were sent to the State party. At the end of the eighty-first session, the Committee decided to convert them into final and public ones.

The situation of civil and political rights in Equatorial Guinea was considered during the seventy-ninth session without a report and delegation. Provisional concluding observations were sent to the State party. At the end of the eighty-first session, the Committee decided to convert them into final and public ones.

The situation of civil and political rights in Saint Vincent and the Grenadines was considered during the eighty-sixth session in the absence of a report but in the presence of a delegation. Provisional concluding observations were sent to the State party, with a request to submit its second periodic report by 1 April 2007.

[c] Although not itself a party to the Covenant, the Government of China has assumed the reporting obligation under article 40 with respect to the Hong Kong and Macau Special Administrative Regions, which were previously under British and Portuguese administration, respectively.

[d] Although no instrument of ratification was submitted by the Republic of Montenegro, the people within the territory of the State - which constituted part of a State party to the Covenant - continue to be entitled to the guarantees enunciated in the Covenant in accordance with the Committee's established jurisprudence (see *Official Records of the General Assembly, Forty-ninth Session, Supplement No. 40* (A/49/40), vol. I, paras. 48 and 49).

[e] Pursuant to the Committee's decision of 27 October 1994 (fifty-second session) (see *Official Records of the General Assembly, Fiftieth Session, Supplement No. 40* (A/50/40), vol. I, chap. IV, sect. B), Rwanda was requested to submit by 31 January 1995 a report relating to recent and current events affecting the implementation of the Covenant in the country for consideration at the fifty-third session. During its sixty-eighth session, two members of the Bureau of the Committee met in New York with the Ambassador of Rwanda to the United Nations, who undertook to submit the overdue reports in the course of the year 2000. As Rwanda had not submitted its third periodic report and a special report, due respectively on 10 April 1992 and 31 January 1995, the Committee decided, at its eighty-seventh session, to consider the situation of civil and political rights in Rwanda at its eighty-ninth session (March 2007).

Annex IV

STATUS OF REPORTS AND SITUATIONS CONSIDERED DURING THE PERIOD UNDER REVIEW AND OF REPORTS STILL PENDING BEFORE THE COMMITTEE

State party and UNMIK	Date due	Date of submission	Status	Reference documents
		A. Initial reports		
Bosnia and Herzegovina	5 March 1993	30 August 2005	Scheduled for consideration during the eighty-eighth session. List of issues adopted during the eighty-seventh session	CCPR/C/BIH/1 CCPR/C/BIH/Q/1
Honduras	24 November 1998	21 February 2005	Scheduled for consideration during the eighty-eighth session. List of issues adopted during the eighty-sixth session	CCPR/C/HND/2005/1 CCPR/C/HND/Q/1
		B. Second periodic reports		
Brazil	23 April 1998	15 November 2004	Considered on 26 and 27 October 2005 (eighty-fifth session)	CCPR/C/BRA/2004/2 CCPR/C/BRA/CO/2 CCPR/C/SR.2326-2327 CCPR/C/SR.2336
Hong Kong Special Administrative Region (China)	31 October 2003	14 February 2005	Considered on 20 and 21 March 2006 (eighty-sixth session)	CCPR/C/KHG/2005/2 CPR/C/KHG/CO/2 CCPR/C/SR.2350-2351 CCPR/C/SR.2364
Paraguay	9 September 1998	9 July 2004	Considered on 19 and 20 October 2005 (eighty-fifth session)	CCPR/C/PRY/2004/2 CCPR/C/PRY/CO/2 CCPR/C/SR.2315-2317 CCPR/C/SR.2330
Central African Republic	9 April 1989	11 April 2005	Considered on 12 and 13 July 2006 (eighty-seventh session)	CCPR/C/CAR/2005/2 CCPR/C/CAR/CO/2 CCPR/C/SR.2373-2374 CCPR/C/SR.2358

State party and UNMIK	Date due	Date of submission	Status	Reference documents
Saint Vincent and the Grenadines[a]	31 October 1999	Not yet received	Situation considered in the absence of a report but in the presence of a delegation on 22 March 2006 (eighty-sixth session)	CCPR/C/VCT/CO/2 CCPR/C/SR.2353-2354 CCPR/C/SR.2364
Czech Republic	1 August 2005	24 May 2006	In translation. Scheduled for consideration at a later session	CCPR/C/CZE/2
		C. Third periodic reports		
Democratic Republic of the Congo	31 July 1991	30 March 2005	Considered on 15 and 16 March 2006 (eighty-sixth session)	CCPR/C/RDC/2005/3 CCPR/C/COD/CO/3 CCPR/C/SR.2344-2345 CCPR/C/SR.2358
Republic of Korea	31 October 2003	10 February 2005	Scheduled for consideration during the eighty-eighth session. List of issues adopted at the eighty-sixth session	CCPR/C/KOR/2005/3 CCPR/C/KOR/Q/3
Madagascar	30 July 1992	24 May 2005	Scheduled for consideration during the eighty-ninth session. List of issues adopted during the eighty-seventh session	CCPR/C/MDG/2005/3 CCPR/C/MDG/Q/3
United States of America	7 September 1998	21 October 2005	Considered on 17 and 18 July 2006 (eighty-seventh session)	CCPR/C/USA/3 CCPR/C/USA/CO/3 CCPR/C/SR.2379-2381 CCPR/C/SR.2395
Zambia	30 June 1998	16 December 2005	In translation. Scheduled for consideration at a later session	CCPR/C/ZMB/3

State party and UNMIK	Date due	Date of submission	Status	Reference documents
Sudan	7 November 2001 A special report was requested by 31 December 2005 on particular provisions covered by the then submitted third periodic report	28 June 2006	In translation. Scheduled for consideration at a later session	CCPR/C/SUD/3
Barbados	11 April 1991	7 July 2006	In translation. Scheduled for consideration at a later session	CCPR/C/BRB/3
		D. Fourth periodic reports		
Libya	1 October 2002	6 December 2005	To be submitted for translation. Scheduled for consideration at a later session	CCPR/C/LIB/4
Austria	1 October 2002	20 July 2006	In translation. Scheduled for consideration at a later session	CCPR/C/AUT/4
		E. Fifth periodic reports		
Canada	30 April 2004	17 November 2004	Considered on 17 and 18 October 2005 (eighty-fifth session)	CCPR/C/CAN/2002/5 CCPR/C/CAN/CO/5 CCPR/C/SR.2312-2313 CCPR/C/SR.2328 CCPR/SR.2330
Chile	28 April 2002	9 February 2006	In translation. Scheduled for consideration at a later session	CCPR/C/CHI/5
Costa Rica	30 April 2004	9 February 2006	In translation. Scheduled for consideration at a later session	CCPR/C/CRI/5
Italy	1 June 2002	19 March 2004	Considered on 20 and 21 October 2005 (eighty-fifth session)	CCPR/C/ITA/2004/5 CCPR/C/ITA/CO/5 CCPR/C/SR.2318-2319 CCPR/C/SR.2335

State party and UNMIK	Date due	Date of submission	Status	Reference documents
Norway	31 October 2004	30 November 2004	Considered on 14 March 2006 (eighty-sixth session)	CCPR/C/NOR/2004/5 CCPR/C/NOR/CO/5 CCPR/C/SR.2342-2343 CCPR/C/SR.2358
		F. Sixth periodic reports		
Ukraine	1 November 2005	3 November 2005	Scheduled for consideration during the eighty-eighth session. List of issues adopted during the eighty-seventh session	CCPR/C/UKR/6 CCPR/C/UKR/Q/4
		G. UNMIK reports		
UNMIK	On 30 July 2004, in conformity with para. 1 and 3 of its concluding observations on the initial report of Serbia and Montenegro, the Committee requested UNMIK to provide, without prejudice to the legal status of Kosovo, a report on the situation of human rights in Kosovo since June 1999[b]	7 February 2006	Considered on 19 and 20 July 2006 (eighty-seventh session)	CCPR/C/UNK/1 CCPR/C/UNK/Q/1 CCPR/C/SR.2383-2385 CCPR/C/SR.2394

Notes

[a] The situation of civil and political rights in Saint Vincent and the Grenadines was considered during the eighty-sixth session in the absence of a report but in the presence of a delegation. Provisional concluding observations were sent to the State party, with a request to submit its second periodic report by 1 April 2007.

[b] See annual report A/60/40 (vol. I, para. 76).